

## INTRADEPARTMENTAL CORRESPONDENCE

June 11, 2020

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OFFICE OF THE INSPECTOR GENERAL

**TO:** The Honorable Board of Police Commissioners

**FROM:** Chief of Police

**SUBJECT:** OFFICER INVOLVED SHOOTING NO. 042-19

Honorable Members:

The following is my review, analysis, and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 042-19. A Use of Force Review Board (UOFRB) was convened on this matter on May 18, 2020. I have reviewed and adopted the recommendations from the UOFRB for this incident. I hereby submit my findings in accordance with Police Commission policy.

### SUMMARY<sup>1</sup>

On August 19, 2019, at approximately 1550 hours, Carlos Torres Senior, Deadira Torres, and Ariel Torres responded to Mission Community Police Station where they met with front desk officer, Officer L. McDermott, Serial No. 43367, Mission Patrol Division.<sup>2</sup> According to Ariel, Officer McDermott assisted him with calling Communications Division (CD) from the front desk. Ariel advised the operator that Carlos and Deadira were the legal owners of 13101 Ottoman Street and that their adult son, Carlos Torres Junior (hereafter referred to as Torres), had illegally locked them out. Ariel advised that Carlos and Deadira would be standing by near Ottoman Street and Lev Avenue. The operator advised Ariel that officers would call them upon their arrival. Communications Division generated Incident No. 190819004186 and dispatched it via Mobile Digital Computer (MDC) to Unit 19A85 (Additional Tactical Debrief Topic – Front Desk Procedures).<sup>3</sup>

<sup>1</sup> The summary and the investigation completed by FID for this incident have been provided to the Board of Police Commissioners.

<sup>2</sup> For clarity, since there are several persons identified in with the last name of Torres, Carlos, Deadira, and Ariel will be referred to by their first names for the remainder of this report.

<sup>3</sup> The FID investigation revealed on August 17, 2019, at approximately 1704 hours, Carlos and his son Manuel Torres initiated a radio call regarding Torres. Officers R. Brubaker, Serial No. 38487, and A. Jansen, Serial No. 40820, along with Sergeant R. Nakamura, Serial No. 31842, Mission Patrol Division, responded to the radio call. Carlos reported several potential criminal acts by Torres including: Assault with a Deadly Weapon, Vandalism, and Criminal Threats. The officers and sergeant did not attempt to arrest Torres and ultimately, no Investigative Report was completed for that incident. A personnel complaint investigation was initiated by Internal Affairs Group and is currently pending resolution (CF No. 19-003211) at the time of this report.

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According to the FID investigation, at approximately 1556 hours, Officers A. Herrera, Serial No. 42119, and R. Hernandez, Serial No. 43361, assigned unit 19A85, were in full police uniform driving a marked black and white police vehicle. They received a “family dispute” radio call at 13101 Ottoman Street. While enroute to the incident, Officer Hernandez, who was the passenger, read the following comments to Officer Herrera: “Upon arrival contact PR [Person Reporting]. PR standing by in black Escalade, no plates, suspect/son male/Hispanic, 35-40 yrs, 5’09”-5’10”, 140-160 lbs, Bald, Tattoos on Right Side of Head (Letter P), NFD. Unknown if any weapons. Suspect locked PR out of residence. PR requested PD to keep the peace.”

According to the FID investigation, Officers Herrera and Hernandez had transferred to Mission Patrol Division approximately three weeks prior to this incident and this was their second shift working together as partners. According to the officers, they had previously discussed tactical situations and had identified roles of contact and cover on their prior shift together; however, they had not held a similar discussion on their current shift and they both believed they were each the *cover* officer for the incident. According to Officer Herrera, their plan was to *speak with the reporting person of the radio call prior to formulating a tactical plan.*

According to the FID investigation, at approximately 1619 hours, Officers Herrera and Hernandez arrived and parked their police vehicle on Ottoman Street, one house west of the location of the radio call. The officers exited the police vehicle and approached the residence. Officers Hernandez and Herrera entered the enclosed courtyard through the pedestrian gate and walked toward a small set of steps leading to the front door. Prior to the officers reaching the steps, Torres opened the door and stood outside the threshold. Officer Herrera and Hernandez positioned themselves offset from each other with Officer Hernandez south of Torres and Officer Herrera southeast of Torres. From the base of the steps, the officers asked Torres if he had called the police. Torres advised he had not and asked if they were responding to his home security alarm. When questioned by the officers, Torres stated he lived in the residence with his parents, who were currently at work (**Debriefing Point No. 1**).

According to Officer Herrera, *once he saw Torres come out* of the residence, he recognized Torres was going to be the *suspect* Carlos had called upon and *that Carlos was not at the location*. Officer Herrera directed CD to contact Carlos and have him meet the officers to determine if *a crime had occurred*. According to Officer Herrera, *a few moments later, a male showed up*, who *identified himself as Torres’ father* (Carlos Torres). Officer Herrera met with Carlos by the *entrance of the front yard* of the house, while maintaining a view of Torres and his partner.

According to Officer Hernandez, he continued to engage Torres in conversation so that Torres would not overhear or interrupt Officer Herrera’s interview with Carlos. Officer Hernandez noticed Torres was getting *nervous about* what Carlos and Officer Herrera were speaking about and attempted to interject. In order to de-escalate the situation, Officer Hernandez attempted to deflect the comments and distract Torres into talking about Torres’ line of employment.

According to the FID investigation, Carlos advised Officer Herrera that his family could not enter their house because Torres was threatening them. Carlos stated Torres was, “Carrying a gun. I don’t know if he has it with him or not, I’m sure he does. If not, I can tell you roughly where it’s at. If not, I would like to have you guys search for it.” Officer Herrera asked if Torres had ever used the handgun against them. Carlos replied, “He has shown it to us...Uh, well pointed it at us a couple of times.” Carlos advised that Torres had his own room, which was locked, and that Carlos did not have access to it. Officer Herrera again asked where Torres’ handgun was located. Carlos stated that he did not know if Torres had the handgun with him or if it was in Torres’ room. He added that Torres usually carried the handgun on his person near his *stomach*. Officer Herrera asked Carlos if Torres had been previously arrested to determine if Torres could legally possess a firearm. According to Officer Herrera, when Carlos advised him that Torres had served 15 years in prison for attempted murder, Officer Herrera realized Torres was a felon and was prohibited from possessing a handgun (**Debriefing Point No. 2**).

According to the FID investigation, Officer Herrera stated he gestured for Carlos to remain where he was, while he focused his attention on Torres; however, Carlos did not adhere to Officer Herrera’s gesture. Officer Herrera walked back to the porch to inform Officer Hernandez of what Carlos had told him and to formulate a plan as to how they were going to handle the incident (**Debriefing Point No. 3**).

According to Officer Herrera, he *wanted to advise* Officer Hernandez of the *knowledge he had* which was provided to him by Carlos before he requested *a backup* or before he drew his service pistol. He did not want to call Officer Hernandez to his location away from Torres, which would have required Officer Hernandez to *turn* his back to Torres. Officer Herrera stated, *in order for us to be facing* Torres, *I wanted to approach* Torres. Officer Herrera further indicated that his plan was to draw his service pistol and request a backup and a supervisor once he had the opportunity to advise his partner what Carlos had told him (**Debriefing Point No. 4**).

According to the FID investigation, upon joining his partner, Officer Hernandez asked Officer Herrera if everything was “good.” Officer Herrera stated, “Yeah,” and immediately requested Torres to step down from the porch.<sup>4</sup> Torres did not respond to Officer Herrera’s request to step down off the porch, but instead began calling to his father, Carlos, who had walked to the bottom of the porch steps near the officers. Approximately five seconds after asking Torres to step off the porch, Officer Herrera leaned over to Officer Hernandez and stated, “Apparently, he said that he [Torres] has a firearm.”

**Note:** According to Officer Herrera, he whispered the above statement to his partner. It is unknown if Torres overheard the officers communicating with each other.

According to Officer Herrera, due to the rapport he and his partner had gained with Torres through their initial *communication*, he asked Torres to step off the porch to take away the *higher ground* Torres had on them, in an effort to *de-escalate* the situation. Officer Herrera stated he

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<sup>4</sup> The conversation between Officers Herrera and Hernandez just after Officer Herrera spoke with Carlos was subtitled in FID’s presentation to the UOFRB.

whispered the information he had received from Carlos to Officer Hernandez. Officer Herrera noticed Torres began *acting a little different*. Officer Herrera began *trying to talk to Torres to have him come down to the bottom and have Torres turn around*.

According to Officer Hernandez, after Officer Herrera informed him Torres had a *firearm inside the residence*, he continued to attempt to converse with Torres to keep him from *going inside* in an effort to not *escalate* the situation *to a use of force* or a barricaded suspect scenario.

**Note:** According to the FID investigation, Officer Herrera advised Officer Hernandez that Carlos had stated Torres had a firearm, but Officer Herrera did not specify it was in the residence.

According to the FID investigation, Torres did not respond to Officer Herrera's request to step down off the porch. Torres appeared to have observed the officers' interaction and immediately stepped back inside the threshold of the residence while saying, "Gentleman, don't come in." Carlos then advised the officers they had his permission to enter his residence. Torres reached into his right front waistband area with his right hand and removed a concealed handgun from beneath his sweatshirt. Torres raised the handgun towards the officers and Carlos. Torres stepped behind the partially closed front door as he stated, "Okay, if you want me gentleman, come in." Torres then fired one round in the officers' direction. In response to Torres' actions, both officers drew their service pistols and simultaneously returned fire, while Carlos ran to the front of the garage area for cover (**Debriefing Point No. 5**).

According to Officer Herrera, he drew his service pistol because he had been informed by Carlos that Torres was a convicted felon for attempted murder and was in possession of a handgun. After he relayed the information to Officer Hernandez, Torres became agitated, reached for his waistband with his right hand where he *produced*, drew, and pointed the handgun at Officers Herrera and Hernandez and fired it at the officers. According to Officer Herrera, he *unholstered his weapon to protect himself and others from serious bodily injury or death from him shooting at us*. Officer Herrera heard a gunshot, observed *smoke* emanating from the barrel of Torres' handgun and believed the suspect had fired at him. Officer Herrera stated he fired approximately six to seven rounds at Torres from his service pistol *to protect himself and others from serious bodily injury or death and to stop the threat* [**(Drawing /Exhibiting and Lethal Use of Force – Officer Herrera's Volley One (Rounds one through seven))**].

**Note:** The FID investigation revealed that Officer Herrera fired seven rounds from his service pistol from an increasing approximate distance of 17 to 25 feet.

According to Officer Hernandez, he drew his service pistol because he observed Torres lift his shirt and expose a handgun in his waistband. Torres removed the handgun from his waistband and pointed it towards the officers. According to Officer Hernandez, he drew his service pistol and fired approximately *three to four rounds* at Torres in defense of *serious bodily injury or death* to himself, his partner, and Torres' own father (**(Drawing /Exhibiting and Lethal Use of Force – Officer Hernandez' Volley One)**).

**Note:** The FID investigation revealed that Officer Hernandez fired 4 rounds from his service pistol from approximately 20 feet.

According to the FID investigation, Officer Herrera indicated that when he started firing, the left side of Torres' body was obscured behind the front door. As Torres continued to close the door, his handgun remained outside and pointed towards Officer Herrera. Officer Herrera continued to fire at Torres by estimating his location based on the location of Torres' handgun. Officer Herrera stated he assessed while firing and stopped firing when he no longer observed Torres' weapon and saw that the door had completely closed. Immediately after firing and while still moving backwards, Officer Herrera broadcast, "Shots fired, officer needs help." Officer Herrera exited the courtyard and took cover behind a brick/stucco wall that was connected to the pedestrian gate and broadcasted, "19A85 shots fired, officer needs help."<sup>5</sup>

**Note:** According to the FID investigation, Carlos believed that Torres first fired at him and then at the officers. When Torres' pistol was ultimately recovered, it was found to contain a discharged cartridge case in the chamber and a fully loaded magazine containing 10 rounds of ammunition. Additionally, a fired bullet was recovered from the porch area that was determined to have been fired in Torres' pistol. There was no physical or video evidence to support that Torres fired more than once during this incident.

According to Officer Hernandez, *as soon as* he observed *the door close* he *decided to redeploy* with Carlos behind the *garage* area to obtain cover and concealment. He redeployed to protect himself, his *partner*, and Carlos. Officer Hernandez directed Carlos to jump over a neighboring fence to clear him from the danger. As Carlos jumped over the fence, Officer Hernandez heard Torres say, "Pa," and then observed Torres climbing on a fence. Officer Hernandez communicated with Officer Herrera that Torres was possibly getting *on the roof* of the house and would possibly gain a *tactical advantage* on them. Officer Hernandez *redeployed to the front of the house* to join Officer Herrera.

**Note:** Carlos stated that as he was climbing over the fence, he heard Torres say, "Pa," and believed Torres fired a second shot at him. Carlos then ran south across Ottoman Street.

According to Officer Herrera, believing that Torres *might be getting on the roof*, he and Officer Hernandez began to set a *perimeter* as they *triangulated on* Torres' residence. Officer Herrera moved onto the street to use the parked *vehicles* as cover and to create *distance* from the residence because he feared Torres might fire at them. Officer Herrera stated he moved west, while Officer Hernandez moved east in their effort to establish perimeter containment on Torres' residence.

According to the FID investigation, Torres moved south along the west side of the residence at 13107 Ottoman Street (one house west of Carlos' residence) before jumping a fence and entering its front driveway. Carlos had been walking on the same driveway. As Carlos began to flee

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<sup>5</sup> Officer Herrera's first broadcast was initiated at 1831:30 hours; his second one was made approximately 10 seconds later.

from the driveway onto the Ottoman Street, Torres was running behind Carlos, while still holding his handgun in his right hand.

According to Officer Herrera, he had deployed onto Ottoman Street when he observed Torres running south on the north sidewalk of Ottoman Street then west on Ottoman Street. Officer Herrera stated Torres was *running* with a handgun in his right hand. Officer Herrera described Torres holding the handgun under his left armpit, as he continued running and *pointing the firearm in Officer Herrera's direction*. Herrera stated he fired *eight to nine shots* at Torres from his service pistol [**Lethal Use of Force – Officer Herrera's Volley Two (Rounds eight through 18)**].

**Note:** The FID investigation revealed that Officer Herrera fired 11 rounds from his service pistol from an increasing approximate distance of 38 to 97 feet.

Officer Herrera believed he fired eight or nine shots at Torres and indicated he fired in pairs, assessing between each pair of shots. A review of Officer Herrera's BWV determined he fired four shots in rapid succession, followed by a brief pause, then seven additional shots.

According to the FID investigation, Officer Herrera indicated that as he fired his last shot, Torres began turning clockwise, away from him. Officer Herrera assessed and observed Torres was no longer pointing the handgun at him. Torres stumbled moments later and fell in the street. Officer Herrera lowered his service pistol and observed it was out of ammunition with the slide locked back to the rear. He then observed Torres running towards the north sidewalk of Ottoman Street and lost sight of him near a sport utility vehicle that was parked along the north curb. Officer Herrera believed Torres continued running west, but attempted to confirm Torres' direction to broadcast that information to responding units. As Officer Herrera ran west, he conducted an out-of-battery speed reload by ejecting the empty magazine from his pistol and loading a full magazine (**Debriefing Point No. 5**).

According to Officer Hernandez, as he was positioned near the front of Torres' *residence* he observed Torres on the sidewalk a few houses west of his location. Torres was still in possession of his handgun. He observed that Torres had raised the handgun and *pointed it in the direction of Carlos*. Officer Hernandez believed Torres was *a threat to him, to his partner, and Carlos*. Officer Hernandez fired approximately three to four rounds at Torres from his service pistol (**Lethal Use of Force – Officer Hernandez' Volley 2**).

**Note:** The FID investigation revealed Officer Hernandez fired three rounds from his service pistol from an approximate distance of 71 feet.

According to Officer Hernandez, he stopped firing and lowered his weapon to assess. He observed Torres fall, get up, and run west on Ottoman Street. Officer Hernandez noted that Torres had already attempted to cause *serious bodily injury* or death on two occasions and believed it was necessary to *follow him* in order to stop his actions.

According to the FID investigation, Officer Hernandez moved along the north curb of Ottoman Street and used parked vehicles for cover, while Officer Herrera ran west on the south side of the street. While moving, Officer Hernandez broadcast, “The suspect is running, be advised, suspect is running.” Officer Hernandez lost sight of Torres and sought cover behind a black pick-up truck parked along the north curb of Ottoman Street. While behind the truck, Officer Hernandez conducted a tactical reload.

According to the FID investigation, as Officer Herrera approached the sidewalk near the southeast corner of Ottoman Street and Lev Avenue, he observed Torres waiting for him on the north sidewalk. According to Officer Herrera, Torres was holding his handgun with two hands while pointing it directly at him.

According to Officer Herrera, Torres *turned around and presented the firearm again*. Officer Herrera observed *smoke come from the barrel* of Torres’ handgun, leading him to believe Torres *had fired another round towards him and his partner’s direction*. Officer Herrera stated he fired *six to seven* shots from his service pistol at Torres. Officer Herrera stopped firing when he realized he did not have cover. Believing that Torres was firing at him and being in *fear* for his *life*, Officer Herrera moved back (eastbound) and found cover behind a parked vehicle (**Lethal Use of Force – Officer Herrera’s Volley Three (Rounds 19 through 25) and Debriefing Point No. 5**).

**Note:** The FID investigation revealed Officer Herrera fired seven rounds from his service pistol, from an increasing approximate distance of 118 feet to 129 feet.

According to the FID investigation, Witness Christian Mangual stated he was in the driveway of 13134 Ottoman Street when he heard gunfire and observed Torres running west toward Arleta Avenue. Mangual observed Torres stop on the north sidewalk, directly across the street from him, holding what appeared to be a silver or chrome, .38 caliber handgun in his left hand. Mangual observed Torres pull the trigger and fire two or three rounds in an easterly direction. Mangual believed Torres was firing at an officer that he later observed following Torres toward Arleta Avenue.

According to the FID investigation, Carlos stated he ran behind the officers as they traveled west on Ottoman Street. He observed Torres fire at the officers approximately three or four times and stated the officers returned fire an equal number of times.

According to Officer Herrera, Torres continued to run west and *once again, produced his firearm towards him and his partner’s direction*. Officer Herrera stated he *saw a shiny object coming from underneath Torres’ left armpit which made him believe that Torres was pointing the firearm towards him*. According to Officer Herrera, he *shot his final round* and stopped shooting after he assessed Torres’ location [**Lethal Use of Force – Officer Herrera’s Volley Four (Round 26)**].

**Note:** The FID investigation revealed Officer Herrera fired one round from his service pistol, from an approximate distance of 143 feet.

According to the FID investigation, Torres continued to run west on Ottoman Street. Officer Herrera eventually lost sight of Torres and believed Torres turned north upon reaching Arleta Avenue. In an effort to establish containment, Officer Herrera ran to the southeast corner of Ottoman Street and Arleta Avenue, to determine Torres' direction of travel for responding units. Officer Hernandez remained positioned behind the black pick-up truck as Officer Herrera fired his final shots at Torres. After reloading his service pistol, Officer Hernandez lost sight of Torres. He followed Officer Herrera west on Ottoman Street, while continuing to use parked vehicles and trees as cover. Officer Hernandez joined Officer Herrera on the southeast corner of Arleta Avenue and Ottoman Street, where they both utilized palm trees in the front yard of 13140 Ottoman Street as cover.

According to the FID investigation, Officer Hernandez broadcast, "Suspect is running to Arleta...Arleta and Ottoman... Be advised he's armed...he is armed with a gun, handgun." Shortly after the broadcast, Officer Hernandez broadcast, "Be advised the suspect is wearing a black sweater, wearing all black, wearing all black." Officer Herrera believed Torres ran north on Arleta Avenue and then broadcast, "19A85...last seen northbound on Arleta toward Branford." Officers Herrera and Hernandez remained at the southeast corner until responding units arrived (**Additional Tactical Debrief Topic – Situational Awareness**).

According to the FID investigation, unbeknownst to the officers, Torres unlawfully entered the corner residence of 13141 Ottoman Street through an unlocked front door. Monica Urquiza, her husband Raul Urquiza Senior, and their adult son, Raul Urquiza Junior, were present in the home with four children whose ages ranged from three to sixteen.<sup>6</sup> They did not know Torres, nor had they seen him before. According to Monica, she observed Torres enter her home with a handgun in his hand. Torres told her, "Don't worry. I'm not going to shoot you." Torres asked her to hide him because the police were chasing him. Monica told Torres to get out and yelled to Raul Sr. that Torres had a handgun.

According to the FID investigation, Raul Sr. heard gunfire and armed himself with a 12-gauge, pump-action, shotgun and Raul Jr. armed himself with a 9mm handgun. When Raul Sr. observed Torres standing in the hallway in front of his bedroom door, he racked the shotgun, prompting Torres to state, "Don't shoot, don't shoot." Both Raul Sr. and Raul Jr. ordered Torres out of the residence and into the backyard, while repeatedly ordering Torres to drop his handgun. Torres did not comply and kept his handgun next to his chest, pointed downward. Once outside, they ordered Torres out of the backyard and into the adjacent alley on the north side of their property. According to Raul Jr., Torres appeared to have an injured arm and struggled to climb over the wall but continued to maintain possession of his pistol.

The following Foothill Area Gang Enforcement Detail (GED) officers were starting their shift at Foothill Community Police Station when CD broadcast, "Shots fired, Officer Needs Help." Officers M. Zendejas, Serial No. 40955, and J. Organista, Serial No. 39830, Unit 16G23, Officers A. Green, Serial No. 36890, and Officers D. Fonseca, Serial No. 41863, Unit 16G21, Officers J. Palacios, Serial No. 41775, and W. Ibarra, Serial No. 40905, Unit 16G63, Officers

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<sup>6</sup> For clarity, since there are multiple persons with the last name of Urquiza, they will be referred to by their first names for the remainder of this report.

M. Peraza, Serial No. 38705, K. Morales, Serial No. 42322, F. Rodriguez, Serial No. 42348, Unit 16G61, along with Sergeant B. Kiefer, Serial No. 37641, Unit 16G20, responded to the incident.<sup>7</sup> Air unit Air 16 staffed by Officer C. Vanhorn, Serial No. 32040, pilot, and Officer M. Gomez, Serial No. 37483, Tactical Flight Officer (TFO), Air Support Division (ASD), also responded to the help call.

According to the FID investigation, at approximately 1634:43 hours, TFO Gomez observed Torres in the alley and broadcast, “Male black, verify male black, black long sleeve shirt, black pants, I have a male black in the alley...east/west alley...south of Branford at Arleta.”

According to Officer Organista, as they arrived at scene, they made a left turn from westbound Branford Street to southbound Arleta Avenue. They drove slowly because they were unsure which side of the alley the suspect was located.

According to Officer Zendejas, he recalled the air unit indicated Torres was *in an alley* and was *matching the suspect description of a male wearing all black clothing*. Officer Zendejas noted that the air unit did not specify which side of the street the suspect was on.

According to the FID investigation, at approximately 1634:54 hours, Officer Hernandez, who was still with Officer Herrera on Ottoman Street, broadcast, “Male Hispanic, bald, he is going to be bald.”

According to the FID investigation, Officer Organista indicated that as he heard Officer Hernandez’ last broadcast, he looked to his left and observed Torres in the alley. Officer Organista observed Torres look west, in their direction, before Torres extended his right arm and pointed a handgun at them.

According to Officer Zendejas, as they approached the alley south of Branford Street, he observed Torres in the alley in possession of a handgun. Torres was *already drawn out with both arms, both hands pointing a firearm in his direction*. Officer Zendejas drew his service pistol because he had *reason to believe that the situation could escalate to the point where deadly force could be justified*. Officer Zendejas stated he *feared for his life and feared for the life of his partner*. *In order to stop the threat, he fired one shot from his service pistol at Torres (Officer Zendejas – Drawing/Exhibiting and Lethal Force)*.

**Note:** The FID investigation revealed Officer Zendejas fired one round from an approximate distance of 95 feet.

According to Officer Organista, he observed Torres *had a firearm pointed straight in their direction*. In response, Officer Organista exited his police vehicle and drew his service pistol. He believed Torres posed a *threat* to himself and his fellow officers and the situation was *an*

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<sup>7</sup> Officers Zendejas, passenger, and Organista, driver, were academy classmates and had been partners for approximately five years. Officer Zendejas indicated that before starting their shifts, they discussed tactics including contact and cover and de-escalation as covered in LAPD Directive No.16.

***immediate defense of life (Officer Organista – Drawing/Exhibiting and Additional Tactical Debrief Topic – Situational Awareness).***

According to the FID investigation, upon hearing the gunshot, Raul Sr. and Jr. put down their firearms and placed their hands in the air. Soon after, TFO Gomez broadcast that Torres was down in the alley and indicated that there was a male Hispanic with a shotgun in the adjoining yard.

The below listed officers responded to the incident, in addition to numerous other officers:

- Mission Patrol Division Officers J. Moya, Serial No. 39720, T. Brooks, Serial No. 42056, B. Tsai, Serial No. 42561, K. Griffin, Serial No. 42066, B. Kruse, Serial No. 43293, M. Miller, Serial No. 36332, S. Simental, Serial No. 43708, B. Cuellar, Serial No. 38790, Sergeant E. Vega, Serial No. 34248, and E. Hearn, Serial No. 30407.
- Foothill Patrol Division Officers J. Fischer, Serial No. 32264, R. Sherock, Serial No. 40928, and M. Enrique, Serial No. 40804.

According to Sergeant Kiefer, while enroute to the call, he heard the broadcasts made by the air unit and began *pre-planning* and *assessing* prior to his arrival. He was aware that Torres was down in the alley and that two additional potential suspects were located in an adjacent yard with weapons. Sergeant Kiefer arrived and joined the officers on the north side of the alley to assess the tactical situation. He advised the officers to *stand by and hold* their positions and attempted to de-escalate the situation by purposefully displaying a *calm* demeanor. Sergeant Vega arrived on scene and Sergeant Kiefer directed him to go to the front of 13141 Ottoman Street and coordinate taking Raul Sr. and Raul Jr. into custody.

According to the FID investigation, TFO Gomez broadcast a request for a Rescue Ambulance (RA) to respond and later directed CD to have them stage north of Branford Street and Arleta Avenue. TFO Gomez directed Raul Sr. and Raul Jr. to exit the front of the residence with their hands up. Raul Sr. and Raul Jr. were detained and brought to a safe area south of the location.<sup>8</sup>

According to Sergeant Kiefer, he assembled an arrest team and assigned roles to the officers, including *point, shield, less-lethal* and *arrest*. The arrest team consisted of Officers Green, Fonseca, Palacios, Sherock, Rodriguez, Ibarra, Zendejas, and Brooks (**Officer Zendejas - Drawing/Exhibiting and Additional Tactical Debrief Topic - Protocols Subsequent to a Categorical Use of Force**).

According to the FID investigation, at approximately 1644:11 hours, Sergeant Kiefer directed the arrest team and they approached and applied handcuffs to Torres, taking him into custody.

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<sup>8</sup> The field investigation conducted during this incident later revealed that Raul Sr. and Raul Jr. were victims. Both Raul Sr. and Raul Jr. were released from custody.

Note: LAFD personnel responded, assessed Torres' condition at scene, and pronounced him deceased at 1655 hours.

According to the FID investigation, Sergeant K. Kahoe, Serial No. 33820, Mission Patrol Division, Watch Commander, responded and took over as Incident Commander. He directed crime scene management, assured involved personnel were separated, monitored, admonished, and requested a Command Post to be established. Sergeant Kahoe additionally directed Sergeant Kiefer to clear the location of the original OIS at 13101 Ottoman Street.

According to the FID investigation, Sergeant Kiefer supervised a team of officers as they cleared Torres' residence at 13101 Ottoman Street. No additional victims or suspects were located.

At 1710 hours, Sergeant David Parker, Serial No. 37112, Mission Area, notified the Department Operations Center (DOC) of the OIS.

## **FINDINGS**

**Tactics** – Administrative Disapproval, Officers Herrera and Hernandez. Tactical Debrief, Sergeant Kiefer, along with Officers Zendejas and Organista.

**Drawing/Exhibiting** – In Policy, No Further Action, Officers Herrera, Hernandez, Zendejas, and Organista.

**Lethal Use of Force** – In Policy, No Further Action, Hernandez, and Zendejas. In Policy, No Further Action, Officers Herrera (Rounds 1-16 and Rounds 19-25). Out of Policy, Administrative Disapproval, Officer Herrera (Rounds 17,18, and 26).

## **ANALYSIS<sup>9</sup>**

### **Detention**

Officers Herrera and Hernandez responded to a radio call of a family dispute at a residence. The officers approached the location and as they neared the front door they were met by Torres. While officers conversed with Torres, they discovered he was not the PR who generated the radio call. Officer Herrera contacted CD and requested for the PR to meet. Carlos arrived on scene where he met with and informed Officer Herrera that Torres was not allowing Carlos inside of Carlos' own residence; in addition, Carlos advised Officer Herrera that Torres was a convicted felon, was in possession of a handgun, and had threatened Carlos and his wife with the handgun. Officer Herrera determined a crime had occurred and planned to detain Torres. He gave Torres commands in an attempt to detain Torres. Torres became agitated and disregarded Officer Herrera's commands. Torres grabbed his waistband, retrieved a handgun, and fired at officers, which subsequently led to the officers becoming involved in an OIS. The officers' detention was within Department policies and procedures.

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<sup>9</sup> The analysis reflects my recommendations as supported by the preponderance of the evidence established by the investigation.

## Tactics

Department policy relative to a Tactical Debrief is: "*The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance.*"

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

### Tactical De-Escalation

*Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

### Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – Officers Herrera and Hernandez had previously discussed tactical situations, service pistol and back up pistol capabilities, identified their utilization of radio earpieces to enhance their tactical communication, and had identified roles of contact and cover and the possibility of interchanging these roles as a situation developed, on their prior shift together; however, they had not held a similar discussion on their current shift as they both believed they were each the cover officer for the incident. Their plan for this radio call was to contact Carlos, determine the circumstances that lead to the radio call from Carlos, and then create a tactical plan from the information received. However, Officers Herrera and Hernandez disregarded the comments of the radio call to contact Carlos upon arrival and instead proceeded directly to the location where Torres was located. In addition, as the incident progressed, and Officer Herrera became aware Torres was a convicted felon, in possession of a handgun, and had pointed it at Carlos, Officer Herrera planned to not request additional resources, and not draw his service pistol, and instead

provided commands to Torres prior to informing Officer Hernandez of the very real risk and threat.

The UOFRB noted, Officers Herrera and Hernandez lack of a detailed plan lead to a cascading effect in the incident from start to finish. Once the incident rose to the level of a deadly force incident, Officers Herrera and Hernandez initially communicated with each other to redeploy and be vigilant that Torres may be attempting to gain a tactical advantage against them; however, as the situation proceeded and additional OIS occurrences took place, the officers became reactionary and did not communicate with each other or develop a specific plan on how to proceed. This incident would have benefitted from additional planning while Officer Herrera and Hernandez were initially enroute, once they arrived on scene, and as it unfolded.

Officers Zendejas and Organista were academy classmates and had been partners for approximately five years. Officer Zendejas planned each day before starting their shifts, they discussed tactics including contact and cover and de-escalation.

Sergeant Kiefer had begun developing a plan as he was enroute to the request for additional personnel. Once he arrived, Sergeant Kiefer took control of the scene and directed officers to maintain their positions as he planned for the containment of the additional residence where additional possible suspects armed with a handgun and shotgun had been observed. As the additional suspects were detained, Sergeant Kiefer planned and organized an arrest team with designated roles and assignments to take Torres into custody.

**Assessment –** When Officers Herrera and Hernandez received the radio call, Officer Hernandez read the comments of the call to Officer Herrera. Officers made a plan to meet with Carlos prior to establishing a tactical plan, in doing so officers failed to assess the comments of the call which directed officers to contact Carlos who was not at the residence as they arrived. The officers instead responded to the residence, where they were met by Torres. Officers Herrera and Hernandez assessed that Torres was the suspect of the radio call and decided they needed to contact Carlos to determine the reason they had been called to the scene. When Carlos arrived on scene, Officer Herrera met with him and became aware of the threat Torres posed. Officer Herrera evaluated the information and believed that if he advised Officer Hernandez to leave Torres, he would risk Officer Hernandez exposing his back to Torres.

Officer Herrera decided because of the rapport officers had built with Torres to approach Officer Hernandez and Torres and attempt to gain Torres's compliance. As Officer Herrera joined his partner, followed by Carlos, he provided direction to Torres and soon after informed Officer Hernandez that Torres was in possession of a handgun. Officers maintained their positions and provided commands to Torres and while doing so Torres exposed, drew, and fired his handgun towards officers. Officers Herrera and Hernandez assessed their position and redeployed to areas of cover and concealment and continuously assessed their positions and further redeployed in order to set up containment on the residence while informing additional personnel of their needed assistance. The officers assessed after they discharged their service pistols during and after each volley. During the officer's volleys of fire, Officer Herrera observed his service pistol had gone to slide lock and was out of ammunition. In order to continue addressing the threat,

Officer Herrera conducted an out-of-battery speed reload and continued to engage Torres. Officer Hernandez also assessed after his second volley and made the decision to deploy behind cover and conduct a tactical reload with a fully loaded magazine to better be prepared for Torres should the situation arise again for him to utilize deadly force upon Torres. When officers ultimately lost sight of Torres they held their position, gained cover, and attempted to establish further containment.

The UOFRB noted, and I concur, that Officer Herrera did not have sufficient situational awareness of the threat posed by Torres while he discharged Rounds 17, 18, and 26. During the discharging of those rounds, Officer Herrera would have greatly benefitted from either conducting an assessment or conducting a more effective assessment of the situation.

The UOFRB noted Officers Herrera and Hernandez failed to assess the comments of the radio call which lead to officers contacting Torres prior to meeting with Carlos, and in doing so eliminated their basic plan of meeting with the PR and developing a more detailed tactical plan from the information provided. Officer Herrera failed to assess the danger Torres placed on himself, Officer Hernandez, and Carlos when provided information that Torres was a convicted felon, was in possession of a handgun, and had pointed the handgun at Carlos and his wife.

As Officers Zendejas and Organista were enroute to the call, they assessed the radio broadcasts being transmitted by the air unit as well as Officer Hernandez and as they neared the location they slowed their police vehicle down and continued to process additional broadcast information which lead them to locate and identify Torres as they approached him in the alley. Officer Organista utilized the limited time to assess Torres' body position and attempted to position the police vehicle to be utilized as cover while Officer Zendejas observed Torres in possession of a handgun, which was being pointed at himself and his partner. Officer Zendejas accessed the situation and discharged one round from his service pistol to stop the threat. After Officer Zendejas discharged the round, he accessed and observed Torres drop the handgun and fall to the ground. Officers Zendejas and Organista then redeployed to access more ideal cover as they communicated with Torres.

When Sergeant Kiefer arrived, he assessed the scene and directed personnel to hold their positions as an ongoing tactical situation in an adjoining location needed to be addressed prior to approaching Torres and taking him into custody.

**Time** – Officers Herrera and Hernandez were afforded time while enroute to the radio call to create a tactical plan and designate roles which include contact and cover. Based on the comments of the call, the officers had decided to meet with Carlos prior to formulating a more detailed plan on how to proceed with the incident. However, officers disregarded their plan and proceeded directly to the residence and ultimately to Torres.

Once Officers Herrera and Hernandez initiated contact with Torres and established a rapport with him, Officer Herrera utilized time to contact CD and thereafter met with Carlos where he determined multiple crimes had taken place and identified the threat Torres placed on he and his partner. Officer Herrera was again afforded with time to request additional resources and await

their response; however, Officer Herrera proceeded to attempt to gain Torres' compliance with just himself and his partner.

The UOFRB noted Officer Herrera and Hernandez were faced with no exigency in responding to the radio call and were afforded with time to develop a more specific tactical plan and assess the comments of the radio call. It was also noted that Officer Herrera had the time to request additional personnel to assist himself and Officer Hernandez when he was made aware of the threat Torres posed. Furthermore, when Officer Herrera informed Officer Hernandez that Torres had been in possession of a handgun officers continued to stand between the pillars connected to the residence which reduced the time they had to react by not utilizing distance and the cover available.

Sergeant Kiefer utilized his time enroute to the radio call to listen to radio broadcasts and plan for the incident. Upon his arrival, he maximized time to slow down, control the situation, identify and contain threats, and gather additional resources prior to making contact and detaining Torres.

**Redeployment and/or Containment** – As Officers Herrera and Hernandez observed Torres reach for, draw, point, and fire his handgun at officers, Officer Herrera redeployed back away from Torres while shooting his service pistol as Officer Hernandez redeployed behind a column attached to the residences' front porch as he fired his service pistol. When Torres closed the front door to the residence, Officer Herrera redeployed out of the front courtyard of the residence and onto the sidewalk as Officer Herrera redeployed in front of the residences' garage. Upon hearing Torres and believing Torres was attempting to obtain a tactical advantage on officers and get on the roof, Officer Hernandez redeployed and joined his partner in front of the residence in order to triangulate on the house and establish containment as they utilized the residences wall and parked vehicles for cover. As officers assessed the scene and requested additional resources, Torres emerged from a neighboring property and ran onto the street, removing the cover provided to Officer Herrera. Officers engaged in additional OIS occurrences and continuously redeployed to address Torres and communicate with the responding resources Torres location as they attempted to establish containment.

The UOFRB noted that Officer Herrera and Hernandez would have benefited from redeploying to cover and creating distance when they became aware Torres had been in possession of a firearm. The UOFRB also noted the Officer Hernandez was without the full benefit of the information provided by Carlos to Officer Herrera. The UOFRB was critical of Officer Herrera not redeploying to cover as he believed Torres was firing upon him and as his service pistol went to slide lock and while conducting an out-of-battery speed reload.

After Officer Zendejas discharged his service pistol, Officers Zendejas and Organista redeployed from their patrol vehicle to a large concrete wall which provided optimal cover as Torres was contained in the alley where he was shot and laying on the ground.

**Other Resources** – Upon determining Torres was the suspect in the radio call, Officer Herrera utilized CD to contact and direct Carlos to meet with himself and Officer Hernandez. When

Carlos arrived, Officer Herrera gathered additional information regarding the threat Torres posed to officers as well as Carlos. Officer Herrera informed Officer Hernandez of the threat and attempted to gain the compliance of Torres. Torres disregarded officers' commands and removed a handgun from his waistband and fired it at officers. In response, officers returned fire and upon completion of the first volley of fire, Officer Herrera broadcast a help call, which included the request for additional personnel, a supervisor, and an airship. Officers Herrera and Hernandez' lack of additional resources prior to re-engaging Torres resulted in a delayed response in personnel at scene prior to and during the deadly force incidents.

The UOFRB noted that Officers Herrera and Hernandez' tactical response would have benefited from requesting additional resources once Officer Herrera became aware of the threat Torres posed to officers and Carlos instead of having waited until the OIS to do so.

Sergeant Kiefer utilized the airship and the additional personnel at scene for communication as well as to secure the scene prior to taking Torres into custody. Sergeant Kiefer also requested and utilized the additional safety equipment of the ballistic shield prior to the arrest team approaching Torres who was potentially a continued threat to officers.

**Lines of Communication** – Officer Hernandez read the comments of the radio call to Officer Herrera wherein they discussed and developed a plan to initially meet with Carlos prior developing a more in-depth plan on how to further approach the incident. During the course of the incident and due to the rapidly evolving situation when Officers Herrera and Hernandez observed Torres was in possession of a handgun, they were unable to provide commands due to Herrera's violent actions.

Immediately following the initial OIS incident, Officer Hernandez verbalized for Carlos to jump over a fence in an attempt to remove him from the scene and out of harm's way while Officer Herrera communicated with CD the officers' need for additional resources and immediate assistance. As Carlos was jumping over the fence, Officer Hernandez briefly observed Torres on fencing and heard his movements which lead him to believe Torres was attempting to acquire a tactical advantageous position on officers and climb to the roof of the residence. Officer Hernandez redeployed and communicated with Officer Herrera of Torres' actions and the belief he may be on the roof. While in front of the residence, officers continued to communicate with each other and when Torres emerged from a neighboring residence they communicated Torres' location to each other. As the event unfolded the communication between officers diminished but was re-established when Torres' whereabouts became unknown and Officer Hernandez verbalized with Officer Herrera to relocate to cover as additional personnel arrived on scene

The UOFRB noted that Officers Herrera and Hernandez conducted limited communication in developing their initial plan which they ultimately disregarded, resulting in officers contacting Torres prior to meeting with Carlos and forming their tactical plan. The UOFRB continued to note the lack of communication between the officers, especially when Officer Herrera became informed Torres may be in possession of a handgun. Furthermore, Officers Herrera and Hernandez did not effectively communicate with each other while they each conducted reloads of their service pistols.

Officers Zendejas and Organista discussed directions while enroute to the call in a different division, outside of their assigned area. They discussed the suspect description and status of the incident prior to their arrival. They continued to communicate with each other and responding personnel to tactically approach and ultimately apprehend Torres.

Sergeant Kiefer effectively communicated with the airship, additional supervisors, and numerous officers at scene. Through Sergeant Kiefer's communication with personnel at scene he ensured locations were searched, teams were formed, and the apprehension of Torres was reasonably accomplished.

During the review of the incident, the following Debriefing Topics were noted:

**Debriefing Point No. 1**

**Tactical Planning**

(Substantial Deviation, without Justification – Officers Herrera and Hernandez)

*Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack (California Commission on Peace Officer Standards and Training, Learning Domain 21).*

The investigation revealed that Officers Herrera and Hernandez did not discuss contact and cover roles or develop a specific plan while enroute to the radio call. Furthermore, as the incident progressed Officers Herrera and Hernandez failed to assess the information they received and formulate or communicate a plan on how to best approach the changing dynamics of the incident.

In this case, Officer Hernandez stated he had read the comments of the radio call to Officer Herrera, which included for them to meet with the PR who had been illegally locked out of his own residence by the suspect. Officers Herrera and Hernandez developed a plan to meet with the PR and upon receiving additional information would then develop a tactical plan on how best to approach the incident. However, the officers responded directly to the residence and ultimately made immediate contact with the Torres, the suspect, in contrast to their own plan.

The UOFRB noted Officers Herrera and Hernandez both had the opportunity to create and communicate a specific plan with each other while enroute and even as they arrived at the scene of the radio call. While the officers did create an initial plan to contact the PR and develop a more elaborate plan from there, they immediately diverted from their initial plan. The comments of the radio call requested the officers to contact the PR upon the officers' arrival and that the PR would be standing by their vehicle. The PR's phone number was included in the radio call. Had the officers met with Carlos prior to meeting with Torres, per their initial plan, they could have used the information provided by Carlos to implement additional tactical de-escalation techniques. They would have had an opportunity to assess that the radio call was not simply an illegal lockout, but a more critical incident needed requiring a more detailed tactical plan, incorporating additional resources, containment, and effective communication between the

suspect and officers. The UOFRB also noted that while the officers had discussed tactics during their prior shift together, they failed to engage in discussion on this shift and in particular this event which generated confusion to their designation of contact and cover roles.

I would have preferred that Officers Herrera and Hernandez had developed, communicated, and executed a more detailed plan, which established roles and assignments, including contact and cover, as well as lethal and less lethal designations as they were enroute to the radio call. This would have enabled the officers to maintain a tactical advantage and ensure they properly functioned as a team. I additionally would have preferred that the officers continuously communicated their plans with each other throughout the entirety of the incident to ensure a successful resolution.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Officer Herrera's and Hernandez' tactical planning substantially, and unjustifiably, deviated from approved Department tactical training. I will direct this to be a topic of discussion during the tactical debrief.

**Debriefing Point No. 2**

**Additional Unit Request**

(Substantial Deviation, without Justification – Officer Herrera)

An “Additional Unit” broadcast is when an officer requires an additional unit for a non-emergency situation. The officer requesting shall include the location, followed by the unit identification and all other pertinent information. An “additional unit” request is not an emergency call and responding officers shall obey all traffic laws when responding (*Los Angeles Police Department Manual, Volume 4, 120.40*).

Officer Herrera did not request additional resources when he was advised that Torres was armed with a handgun. Carlos additionally advised Officer Herrera that Torres was a convicted felon for attempted murder and had recently pointed the handgun and Carlos and his wife. Officer Herrera chose to not draw attention to the information he had received and instead approached Torres and attempted to detain him with only the assistance of his partner.

In this case, Torres was continuing to be cooperative and there was no exigency in immediately approaching and detaining him. Officer Herrera had the time and opportunity to, at a minimum, request additional resources to the officers' location prior to making his approach and attempt to detain Torres. The UOFRB would have preferred Officer Herrera gathered additional personnel to the scene prior to engaging Torres. Officer Herrera placed himself and his partner, Officer Hernandez, at a tactical disadvantage by not requesting additional resources.

Based on the totality of the circumstances, the UOFRD determined, and I concur, that Officer Herrera's tactics substantially deviated, without justification, from approved Department tactical training. In order to enhance future performance, I will direct this to be a topic of discussion during the tactical debrief.

**Debriefing Point No. 3**

**Public Safety at Critical Incidents**

(Substantial Deviation, without Justification – Officers Herrera and Hernandez)

*Reverence for human life is the primary consideration in developing tactics and strategies in pursuit of our motto: "To Protect and To Serve." Whenever an operation designed to achieve an immediate goal such as the arrest of a felon or the gathering of evidence to complete a criminal investigation causes a victim, witness, or other innocent person to be subjected to potential injury or death, our primary objective must be to protect that person. No arrest, conviction, or piece of evidence can outweigh the value of human life (Los Angeles Police Department Manual, Volume 1, 130.25).*

In this case, after discovering Torres was possibly armed with a handgun, Officer Herrera walked away from Carlos and towards Torres and his partner, Officer Hernandez. According to Officer Herrera, he gestured to Carlos for him to remain behind and not approach. Carlos instead followed behind Herrera. Officer Herrera notified Officer Hernandez what information that Carlos had informed him of, yet both officers allowed Carlos to approach and verbally engage with Torres, who was possibly armed with a handgun, and remain in close proximity to the incident.

The UOFRB noted preservation of life is one of our most fundamental values and after officers became aware of the danger Torres presented, not only to themselves but also to Carlos, care should have been taken to clear Carlos away from the scene. I would have preferred officers had provided additional direction to Carlos to remove him from the possibility of harm and to ensure his safety.

Based on the totality of the circumstances, the UOFRD determined, and I concur, that Officers Herrera' and Hernandez' actions substantially deviated, without justification, from approved Department tactical training. I will direct this to be a topic of discussion during the tactical debrief.

**Debriefing Point No. 4**

**Tactical Communication**

(Substantial Deviation, without Justification – Officer Herrera)

*Officers are trained to work together and function as a team. In order to ensure officer safety and help ensure an appropriate outcome, the primary officers and cover officers must effectively communicate with one another. Appropriate communication involves advising the primary officer of any critical occurrences or safety issues (California Commission on Peace Officers Standards and Training Learning, Domain No. 22).*

The investigation revealed that Officer Herrera did not effectively communicate with Officer Hernandez of the possible possession of a firearm by Torres, nor was a plan created implemented or communicated. Furthermore, the officers engaged in limited communication between themselves as they became involved in multiple OIS occurrences.

In this case, Officer Herrera was informed by Carlos that Torres was in possession of a handgun. Officer Herrera proceeded to walk back to where Officer Hernandez and Torres were conversing and provided Torres with commands to further exit the residence prior to alerting Officer Hernandez of the information that he had received. When asked by Officer Hernandez if there were any issues or new information obtained from Carlos, Officer Herrera informed him there were no issues. After Torres ignored Officer Herrera's commands, Officer Herrera notified Officer Hernandez that Torres may be in possession of a handgun. According to Officer Herrera he chose not to draw his service pistol in order to de-escalate the situation and instead preferred to attempt to gain compliance from Torres. Officer Herrera additionally stated he did not call his partner back to his location as he did not want Officer Hernandez' back turned towards Torres. Additionally, as the incident escalated into a deadly force incident, the officers conducted minimal communication between themselves while they followed Torres, engaged in additional OIS occurrences and conducted both tactical and in-battery reloads of their service pistols.

The UOFRB noted Officer Herrera's lack of communication with Officer Hernandez placed them in a tactical disadvantage and limited Officer Hernandez's reaction time in assessing the incident. This initial tactical disadvantage continued throughout the incident. The officers' continued lack of communication during and after the OIS occurrences left much room for improvement. I would have preferred that the officers communicate with each other while enroute to the incident and as new information became available.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Officer Herrera's lack of tactical communication placed both officers at a tactical disadvantage and forced the officers to be reactionary to Torres' actions. As such, Officer Herrera substantially deviated, without justification, from approved Department tactical training. I will direct this to be a topic of discussion during the tactical debrief

**Debriefing Point No. 5**

**Utilization of Cover**

(Substantial Deviation, without Justification – Officer Herrera)

*Cover is defined as any object or structure that will stop the opponent's bullets. Officers should attempt to move to and use available cover when involved in any tactical situation and especially when there are weapons involved. Officers should be aware of what items in their surrounding area can be used as cover and what type of cover is required to stop specific rounds (handgun, shotgun, or rifle rounds) (Los Angeles Police Department Basic Firearms Manual, July 2015).*

*Whenever possible, officers should place an object between themselves and the suspect as cover or a barrier. A barrier could be a chain link fence, wrought iron gate or any similar object that prevents the assailant from reaching the officer. If the suspect is contained and does not pose an immediate threat to officers, the public or himself/herself, time is our best tool. Time allows more opportunity to communicate with the suspect and helps to calm the situation (Training Bulletin, Volume XLVI, Issue 9, October 2017).*

The utilization of cover, coupled with distance, enables an officer time to confront an armed suspect while simultaneously minimizing their own exposure. As a result, the overall effectiveness of a tactical incident can be enhanced, while also increasing an officer's tactical options by using available cover.

Upon learning that Torres was possibly armed with a handgun, Officer Herrera approached Torres and did not fully utilize the cover that was available, nor did he advise his partner to seek cover.

In this case, Officer Herrera was informed by Carlos that Torres was a convicted felon for attempted murder, was in possession of a handgun, and had pointed the handgun at Carlos and his wife on prior occasions. The UOFRB noted that a parked vehicle and pillars were available as cover for Officer Herrera. Instead of utilizing cover and alerting Officer Hernandez to do the same, Officer Herrera approached the front porch area and attempted to detain Torres prior to informing his partner. After Torres failed to follow Officer Herrera's commands, Officer Herrera advised Officer Hernandez that Carlos had informed him that Torres was possibly in possession of a handgun. However, even after making this notification, both officers continued to stand in the open air and not utilize cover. It was only after Torres produced a handgun and fired it at the officers that they redeployed behind cover. The UOFRB was critical of Officer Herrera's decision and opined that Officer Herrera placed himself, his partner and Carlos in a significant tactical disadvantage, which posed an unnecessary risk to them all. The UOFRB also noted that Officer Hernandez' lack of using cover was of short duration and due to Officer Herrera's lack of adequate communications.

In addition, after his second volley of fire, Officer Herrera did not seek cover that was available to him.

In this case, Officer Herrera continued to follow Torres as he continued west on Ottoman Street, after his second volley of fire. Officer Herrera followed Torres while remaining in the middle of the street. He bypassed available cover afforded to him from parked vehicles on both sides of the street. Officer Herrera additionally maintained his position on the street as he discovered his service pistol had depleted all of its ammunition and was in slide lock and he made no attempt to redeploy behind cover as he completed an out-of-battery speed reload. The UOFRB would have preferred Officer Herrera utilized the available cover provided to him, especially considering Officer Herrera's belief that Torres was firing his handgun at him.

Based on the totality of the circumstances, the UOFRB, and I concur, that Officer Herrera's decision to disregard cover during his approach with Torres, to not inform Officer Hernandez to utilize cover, and also his inadequate use of available cover during his exchange of lethal force with Torres, were a substantial deviation, without justification, from approved Department tactical training. I will direct this to be a topic of discussion during the Tactical Debrief.

### **Additional Tactical Debrief Topics**

**Front Desk Procedures** – Officer McDermott was assigned as the desk officer when Carlos, Deadira Torres and Ariel Torres responded to Mission Community Police Station. Officer McDermott assisted them with calling CD from the front desk regarding a possible family dispute and illegal lockout incident. Officer McDermott did not relay information gleaned from speaking with Carlos to CD or to the responding unit that may have assisted Officer Herrera and Hernandez in the incident. The UOFRB recommended, and I concur, that Officer McDermott would benefit from attending the Tactical Debrief to review the topic of the coordination of information between all involved officers. As such, I am directing Officer McDermott to attend the tactical debrief; furthermore, I will direct this to be a topic of discussion during the tactical debrief.

**Situational Awareness** – As Officers Herrera and Hernandez arrived at the southeast corner of Ottoman Street and Arleta Avenue, they were unaware of their direction of travel and had to utilize a cellular phone for assistance. The officers are reminded of the importance of knowing their location, not only for their own personal safety, but also in order to provide direction for additional responding personnel. I will direct this to be a topic of discussion during the tactical debrief.

Officer Organista did not place the police vehicle in park upon their arrival at scene and drew his service pistol as he exited the police vehicle. Officer Organista transitioned his service pistol from his right hand to his left hand momentarily while he placed the police vehicle in park. Although responding to a rapidly evolving situation, Officer Organista is reminded to ensure proper control of his police vehicle and his service pistol at all times to ensure safety to officers as well as the public. I will direct this to be a topic of discussion during the tactical debrief.

**Code-Six** – Officers Zendejas and Organista did not place themselves Code-Six as they arrived at scene. They had just started their shift and were preparing their police vehicle and personal equipment when the “Officer Needs Help” call was broadcast. Due to a Mobile Digital Computer (MDC) malfunction and a request by the air unit to keep the frequency clear, Officers Zendejas and Organista were not able to place themselves Code-Six via the MDC and did not broadcast their Code-Six status upon arrival. In addition, the investigation revealed Sergeant Kiefer placed himself Code-Six approximately four minutes after he arrived at scene. Sergeant Kiefer had also just started his shift when the help call broadcast was made. Based on the air unit’s requested for units to remain off the air, Sergeant Kiefer delayed his Code-Six status broadcast. Sergeant Kiefer, as well as Officers Zendejas and Organista, are reminded of the importance of going Code-Six as soon as practicable; however, due to the dynamic aspect of this situation their delayed response was justifiable. To enhance future performance, I will direct this be a topic of discussion during the Tactical Debrief.

**Protocols Subsequent to a Categorical Use of Force** – The investigation revealed that Sergeant Kiefer utilized Officer Zendejas, an involved officer, in the arrest team to take Torres into custody. I will direct this to be a topic of discussion during the Tactical Debrief.

## Command and Control

*Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

*Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).*

*Line Supervision – Defined. A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving conformance with the directions and orders that he/she issues (Los Angeles Police Department Manual, Volume 3, Section 135).*

*Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Supervisor's Field Operations Guide, Volume 2, LAPD Emergency Operations Guide).*

Sergeant Kiefer arrived at the location of the final OIS involving Officer Zendejas and took supervisory control of the incident. He directed officers to maintain their positions and designated Officer Ibarra as the sole communications officer in regard to communicating with Torres. When Sergeant Vega arrived, Sergeant Kiefer, aware of potential additional suspects, directed Sergeant Vega to go to the front of 13141 Ottoman Street and coordinate taking them into custody, prior to approaching Torres. Sergeant Kiefer advised TFO Gomez of his plan to hold the arrest team at the mouth of the alley until the suspects were taken into custody and a ballistic shield arrived for their approach. He then organized and assigned roles and positions to the arrest team which included point, shield, less-lethal, and arrest. Upon confirmation 13141 Ottoman Street was clear of threats, he directed the arrest team to approach Torres and take him into custody.

Upon Torres being taken into custody, Sergeant Kiefer separated Officer Zendejas and informed him to turn off his BWV, not speak to anyone regarding the incident, and informed the Incident Commander, Sergeant Kahoe, of Officer Zendejas' involvement.

Sergeant Kiefer was informed that the initial OIS location had yet to be searched for additional victims or suspects. He assembled a search team, assigned and designated roles, and conducted a warrantless search of the location.

Sergeant Vega organized and coordinated the clearing of the location at 13141 Ottoman Street, the detention of the occupants to determine if they were involved in any related criminal activity.

Sergeant Kahoe responded and took over as Incident Commander. He directed crime scene management, assured involved personnel were separated, monitored, admonished, and requested a Command Post to be established and additionally directed Sergeant Kiefer to clear the location of the original OIS at 13101 Ottoman Street.

Sergeant Hearn responded to the incident and assisted separation and monitoring of Officers Herrera and Hernandez. She additionally obtained a PSS from Officers Herrera and Zendejas. The UOFRB noted Sergeant Hearn assigned Officer Cuellar to monitor involved Officer Hernandez for a short time, while she notified the IC of his involvement. Sergeant Hearn additionally left her BWV activated while she obtained the PSS of an involved officer. Sergeant Parker notified the DOC of the incident.

The actions of Sergeants Kahoe, Kiefer, Vega, and Parker were consistent with Department supervisory training and my expectations of a field supervisor during a critical incident.

The actions of Sergeant Hearn, assigning an officer to separate and monitor an involved officer, was not consistent with Department supervisory training and my expectations of a field supervisor.

### **Tactical Debrief**

In conducting an objective assessment of this case, the UOFRB determined, and I concur, that Sergeant Kiefer, along with Officers Zendejas, and Organista's tactics did not represent a deviation from approved Department tactical training.

In conducting an objective assessment of this case, the UOFRB determined, and I concur, that Officer Herrera and Hernandez' tactics substantially deviated, without justification, from approved Department training, and thus warranted a Tactics finding of Administrative Disapproval.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

The UOFRB recommended, and I concur, that Officer McDermott would benefit from attending the Tactical Debrief.

Therefore, I will direct that Sergeant Kiefer and Officers Herrera, Hernandez, Zendejas, Organista, and McDermott attend a Tactical Debrief and that the specific identified topics are discussed.

**Note:** Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

### **General Training Update (GTU)**

On August 29, 2019, Officers Herrera, Hernandez and Zendejas attended a GTU. All mandatory topics were covered.

### **Drawing/Exhibiting**

Department policy relative to drawing and exhibiting a firearm is: "*An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified*" (*Los Angeles Police Department Manual, Volume No. 1, Section 556.80*).

### **Officer Hernandez**

According to Officer Hernandez, he drew his service pistol because he observed Torres lift his shirt which exposed a handgun in Torres' waistband. Torres then removed the handgun from his waistband and pointed it towards the officers. According to Officer Hernandez, he drew his service pistol because he was in fear of Torres and knew that a handgun could cause serious bodily injury and it can also cause death.

Officer Hernandez recalled,

*"I unholstered my gun, because now the suspect that we were just talking to, now he's a threat now and I know that -- I know a gun can actually cause serious bodily injury and it can also cause death. In order to prevent that is why I unholster my gun. And before I can even give any commands for him not to reach for the gun or do anything with the gun, just*

*put his hands up or to prevent it from escalating to a shooting, he reaches for his gun, begins draw --at this point he's grabbing it, begins drawing it out of his waistband, and then begins -- what's it called? He draws it from his waistband and begins pointing it towards our direction, lifting his arm.<sup>10</sup>*

*And then he -- the suspect went and reached into his waistband, lifts up the shirt, and I was able to see that he had a firearm. I could not see exactly make type, but I can see that it was a handgun. It was not a rifle or a shotgun or anything like that. At that point I decided to withdraw -- draw my gun, because now there was a threat -- an eminent threat where he can cause serious bodily injury or death to either my partner, the PR, which was the father, or myself.<sup>11</sup>*

*He enters the doorway. Says, "Hey, you guys are not welcome in here." Begins to close the door. And then as he's -- as he's in the doorway, he lifts up his shirt and I can see a gun -- a firearm in his waistband. Soon as I saw the firearm, I unholster my gun with my right hand and I start taking side steps. I unholstered my gun, because now the suspect that we were just talking to, now he's a threat now and I know that -- I know a gun can actually cause 3 serious bodily injury and it can also cause death. In order to prevent that is why I unholster my gun.<sup>12</sup>*

### **Officer Herrera**

According to Officer Herrera, he drew his service pistol because he had been informed by Carlos that Torres was a convicted felon for attempted murder and may be in possession of a handgun. After he relayed the information to Officer Hernandez, Torres became agitated, reached for his waistband with his right hand where he produced, drew, pointed the handgun at Officers Herrera and Hernandez, and fired it at the officers. According to Officer Herrera, he unholstered his weapon to protect himself and others from serious bodily injury or death from him shooting at us.

Officer Herrera recalled,

*"And a few moments later, a male showed up, which identified himself as the suspect's father. And he advised that they had been having ongoing problems with their son, and that he is locking them out of the house, and that he is known to have a firearm. At which point, I proceed closer to my partner, which was who he was speaking with the suspect, to advise him of the -- what was going on, to attempt to have some sort of plan. I attempted to contact the suspect. She began to start getting agitated when he reached for in his waistband with his right hand and produced a firearm. At that point, he let off one round, and I just -- I unholstered my weapon to protect myself and others from serious body injury or death of him shooting at us.<sup>13</sup>*

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<sup>10</sup> Officer Hernandez, Interview 2 of 2, Page 10, Lines 1-13

<sup>11</sup> Officer Hernandez, interview 1 of 2, Page 8, Lines 1-10

<sup>12</sup> Officer Hernandez, Interview 2 of 2, Page 9-10, Lines 20-5

<sup>13</sup> Officer Herrera Interview 1 of 2, Page 6, Lines 7-20

*And once the father said, "You can go ahead inside the house and can you search the house," he then backed up into the -- into the doorway, pulled out a firearm with his right hand from his waistband. He -- he then pointed the firearm at us. And that's when I unholstered my weapon to -- to prevent death or bodily injury, serious bodily injury, and the suspect pointed the firearm at us.*<sup>14</sup>

### **Officer Zendejas (Two Occurrences)**

#### First Occurrence

According to Officer Zendejas, he responded to an officer needs help call, where there were shots fired and he knew the suspect was in the area. Officer Zendejas drew his service pistol because he had reason to believe that the situation could have escalated to the point where deadly force could be justified. According to Officer Zendejas, as he arrived on scene he observed Torres was in possession of a firearm and Torres was already drawn out with both arms, both hands pointing a firearm at their direction.

Officer Zendejas recalled,

*Pretty much the reason why I unholstered my firearm was based on the tactical situation. I had reason to believe that the situation would have escalated to the point where deadly force could be justified. And I -- like I said, I knew the -- as soon as I identified the threat, I saw the firearm and that's the reason. And I had heard the shots, I heard the officer needs help call, so I know there was some type of shots fired and I knew that the suspect was in that area, because that's what the airship was giving us updates on.*<sup>15</sup>

*So I look to my right. I don't see the suspect that's being described. As soon as I look to my left, I immediately recognize the suspect and I recognize the threat that he had in his hand. When we approach the alley from -- on the street, he's already -- he's already drawn out with both arms, both hands pointing a firearm at our direction. At which point I immediately unholstered due to the tactical situation.*<sup>16</sup>

According to Officer Zendejas, he holstered his service pistol in order to apply personal protective equipment to his hands after he was designated the handcuffing officer as part of the arrest team.

#### Second Occurrence

According to Officer Zendejas, he drew his service pistol for the second occurrence as he and the arrest team approached Torres to take him into custody. Officer Zendejas stated Torres' firearm was directly next to Torres and believed he was still a possible threat.

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<sup>14</sup> Officer Herrera Interview 2 of 2, Page 6, Lines 16-23

<sup>15</sup> Officer Zendejas Interview 1 of 2 Page 5, Lines 23-25 and Page 6, Lines 1-9

<sup>16</sup> Officer Zendejas Interview 2 of 2, Page 5-6, Lines 23-6

Officer Zendejas recalled,

*"So when we're out on the wall, I holster my firearm, put the gloves on, and then we were waiting for the shield and that's -- I already had unholstered obviously at the time. And then we started approaching, put my gloves on, and my firearm out.<sup>17</sup>*

*"There's a firearm in the immediate -- directly next to the suspect. I don't know if he's -- like I said, I don't know if he's playing -- he's playing -- he's not -- opossum or whatnot, and I didn't want to risk it for us to take some rounds."<sup>18</sup>*

### **Officer Organista**

According to Officer Organista, as he drove to the help call, he observed Torres had a handgun pointed straight in his and Officer Zendejas' direction. In response, Officer Organista exited his police vehicle and drew his service pistol. He believed Torres posed a threat to himself and his fellow officers and it was an immediate defense of life situation.

Officer Organista recalled,

*"So as I was heading towards the rear of the car, that's when I saw the suspect at that time had a firearm pointed straight into our direction. At that time my, my attempt was to cant the vehicle fully to, to face the threat and, and use our vehicle as cover, which includes our ballistic panels to the door. However, due to all the traffic that was coming northbound, I was only able to slightly cant the vehicle just a few angles. At that time I was exiting the vehicle, based on the car I wasn't able to see -- I wasn't able to remain in the car to get a good visual of the suspect. So I was -- my my [sic] attempt was to exit, use my door as, as cover and then I was holstering at the same time.<sup>19</sup>*

*So at that point that's when I remember just him reaching out with the right hand canting it towards the direction of us in our direction. But he had a shooting stance more so or less. And when he saw us, he addressed -- he pointed that gun straight to our direction. And that's when I -- you know, we knew that we had an immediate defense of life situation at that point."<sup>20</sup>*

According to Officer Organista he holstered his service pistol after Torres was taken into custody and Mission Division officers had searched, cleared and provided a Code-Four for the residence Torres had run through prior to the final OIS in the alleyway.

In this case, the UOFRB conducted a thorough evaluation of the reasonableness of Officers Herrera, Hernandez, Zendejas, and Organista's Drawing/Exhibiting. The UOFRB noted that the Officers Herrera and Hernandez responded to a radio call of a "family dispute" that escalated to the point where the suspect produced a handgun and fired it at officers. In response, officers

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<sup>17</sup> Officer Zendejas Interview 2 of 2, Page 27, Lines 12-17

<sup>18</sup> Officer Zendejas Interview 2 of 2, Page 27-28, Lines 25-5

<sup>19</sup> Officer Organista Page 8, Lines 7-21

<sup>20</sup> Officer Organista, Page 19-20, Lines 24-2

drew their service pistols to protect themselves and others from the immediate threat of serious bodily injury or death created by the suspect. Officers Zendejas and Organista responded to the incident and observed that Torres was armed with a handgun.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Herrera, Hernandez, Zendejas, and Organista, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, I find Officers Herrera, Hernandez, Zendejas, and Organista's Drawing/Exhibiting to be In-Policy, No Further Action.

### **Use of Force – General**

*It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:*

- *Defend themselves;*
- *Defend others;*
- *Effect an arrest or detention;*
- *Prevent escape; or,*
- *Overcome resistance*

*The Department examines reasonableness using *Graham v. Connor* and from the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:*

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*

- *The environmental factors and/or other exigent circumstances. (Los Angeles Police Department Manual, Volume 1, Section 556.10)*

### **Lethal Use of Force<sup>21</sup>**

*Law enforcement officers are authorized to use deadly force to:*

- *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
- *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
- *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury (Los Angeles Police Department Manual, Volume No.1, Section 556.10).*

*The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force (Los Angeles Police Department Manual, Volume No.1, Section 556.10).*

**Officer Hernandez – 9mm, seven rounds fired in two volleys.**

**Volley One** - Four rounds, in a northerly direction from an approximate distance of 20 feet.

According to Officer Hernandez, he observed Torres lift his shirt which exposed a handgun in Torres' waistband. Torres withdrew the handgun from his waistband, raised the handgun and pointed it towards the officers. Officer Hernandez discharged four rounds at Torres because he was in fear Torres could cause serious bodily injury to himself, his partner, and Torres' own father.

Officer Hernandez recalled,

*"As he was going for his gun, draws the gun out and he's lifting the gun towards our direction, he's also closing the door. So that's why I took action and shot three to four rounds, because I was in fear that, you know, this guy -- not only did he lift up his shirt and shows us a gun, now he's reaching for it. He pulls out the gun, right.<sup>22</sup>*

*Now he could cause serious bodily injury to his father, my partner, or myself or even death. So at that point I'm in fear that he might -- someone might get seriously injured. So that's why I opened -- opened fire and shot approximately three or four rounds. As soon as I see the*

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<sup>21</sup> Los Angeles Police Department Manual, Volume No.1, Section 556.10

<sup>22</sup> Officer Hernandez, Interview 2 of 2, Page 10, Lines 19-25

*door close, I get my gun at a ready low, which is what we're taught at the academy to assess. Because I can no longer see him, can no longer see if he's a threat, because I don't*

*Know where he is inside the door. I can see a window to my right side and I checked the window. I don't see him there. At that point I decide to redeploy, because I know that at the position I was at, I'm still vulnerable where -- since I don't know where he is inside the house.<sup>23</sup>*

*And before I can even give any commands for him not to reach for the gun or do anything with the gun, just put his hands up or to prevent it from escalating to a shooting, he reaches for his gun, begins draw -- at this point he's grabbing it, begins drawing it out of his waistband, and then begins -- what's it called? He draws it from his waistband and begins pointing it towards our direction, lifting his arm. At which point I opened fire. I know my partner opened fire. I don't know exactly -- I'm not 100 percent if he did, because of all the noise that's going on from the shots being shot off. And as -- I shot approximately three to four -- four rounds.<sup>24</sup>*

*Center mass, yes, because I was taught at the academy you always go for center mass.*<sup>25</sup>

The UOFRB determined that all of the rounds of Officer Hernandez' First Volley of fire to be reasonable as Officer Hernandez was presented with an imminent threat of death or serious bodily injury.

**Volley Two** - Three rounds, in a westerly direction from an approximate distance of 71 feet.

According to Officer Hernandez, as he is positioned near the front of the residence he observed Torres on the sidewalk a few houses west of their location, still in possession of the handgun. Torres raised the handgun and pointed it at the direction of Carlos. Officer Hernandez believed Torres was a threat to him, to his partner, or Carlos and discharged his service pistol.

Officer Hernandez recalled,

*"And I heard him, so I heard him when he said "pa." And that's why I told my partner -- I thought that at the moment he was going to try to get on the roof<sup>26</sup>*

*I say it happened so fast is that we're coming out of the front residence, right. I'm behind them. They're trying to get to cover, and I see him do -- do that, lift up his -- he's calling his dad, lift up his arm with what appears to be a gun. I open fire and then move to cover, right, so I wouldn't be exposed to whatever if he decides to turn to my -- towards my direction and shoot any rounds.<sup>27</sup>*

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<sup>23</sup> Officer Hernandez, Interview 2 of 2, Page 11, Lines 6-22

<sup>24</sup> Officer Hernandez, Interview 2 of 2, Page 10, Lines 6-18

<sup>25</sup> Officer Hernandez, Interview 2 of 2, Page 38, Lines 17-19

<sup>26</sup> Officer Hernandez, Interview 2 of 2, Page 39, Lines 13-16

<sup>27</sup> Officer Hernandez, Interview 1 of 2, Page 19, Lines 10-18

*But I see the suspect, and I see what appears to be the same -- same gun that I had seen initially when we were in the front of the door. And I see him when he's lifting the gun, pointing it at the direction of where the father -- where I had seen the father. And that's when I go on target and I can see him through my front sight. Now when we're -- during our training, right, they always tell us you always focus on your front sight. Of course you got to see your background and see what you're aiming at. So I can see the -- I can see the suspect, but at the same time I'm concentrating on my front sight, so I can get a good shot and not have to -- instead of shooting ten rounds, I can minimize that and minimize the exposure that, you know, if I do miss, I can hit a civilian or a bystander. And I did -- when I do decide to open fire, it was approximately another three to four rounds, and I did not see anyone in my sight. I knew that my partner wasn't anywhere near where I'm pointing my gun at. I knew that the father wasn't anywhere nearby. But I can see the suspect across. Like I said, I approximately shot three to four rounds. Once I -- once I shot those three to four rounds, I go to assess. I do see him -- I do see him fall. I do not know if it's because he was hit by the shots that I shot or that my partner shot or if -- if it was because he hears the guns going off that he decides to just back away and trips and falls.<sup>28</sup>*

*That second time that I shot three to four rounds, that's when I observed him again with the handgun.<sup>29</sup>*

*Because of the distance, I couldn't tell if it was the right or left exactly, but I saw a gun in his hand. Don't know exactly how far he extended it out, but I see that motion of, like, him lifting a gun. That's when I went and aim and then when I aim, now I'm -- Because I already know what my threat is and know what the intentions are and I know that the father is over there where his body -- where his body is positioned and aiming towards, right. I go up to aim. Now I'm focusing center mass. I'm focusing on my front sight, and then I took three or four round -- shot three to four rounds. And then that's when I go to assess, see what's going on. Because that's how -- back to my training, that's how I was taught that, you know, I'm not going to shoot 17 rounds and then wait till I'm fully unloaded a mag to check what's going on, but to shoot three to four rounds and then assess my threat and then take it from there.<sup>30</sup>*

*At that point I knew that he was no longer a threat to me, to my partner, or the father<sup>31</sup>*

The UOFRB determined that all of the rounds of Officer Hernandez' Second Volley of fire to be reasonable as Officer Hernandez was presented with an imminent threat of death or serious bodily injury.

**Officer Herrera** – 9mm, 26 rounds fired in four volleys.

**Volley One (Rounds one through seven)** - Seven rounds, in a northerly direction from an increasing approximate distance of 17 to 25 feet.

<sup>28</sup> Officer Hernandez, Interview 2 of 2, Page 15, Lines 12-25 and Page 16, Lines 1-16

<sup>29</sup> Officer Hernandez, Interview 2 of 2, Page 42, Lines 16-18

<sup>30</sup> Officer Hernandez, Interview 2 of 2, Page 45, Lines 20-25 and Page 46, Lines 1-14

<sup>31</sup> Officer Hernandez, Interview 2 of 2, Page 15, Lines 20-22

According to Officer Herrera, Torres became agitated, produced a handgun from his waistband, pointed the handgun and shot at the officers. Officer Herrera stated he fired his service pistol to protect himself and others from serious bodily injury or death and to stop the threat.

Officer Herrera recalled,

*"He then mentioned that he was -- had been arrested -- I can't remember if it was 12, 13 years for attempt murder. That's when I realized that we had a crime, because a felon with a firearm. I went and approached my partner to -- to make a plan of how we were going to handle it. That's when I looked over at the suspect, and he was not the same demeanor as when we first met with him. He was acting very different. He looked very nervous. And that's when I started to try to de-escalate, try to get him on the outside of the house and to try to talk to him, and to figure out what was the issue with his parents.<sup>32</sup>*

*I attempted to contact the suspect. She began to start getting agitated when he reached for in his waistband with his right hand and produced a firearm. At that point, he let off one round, and I just -- I unholstered my weapon to protect myself and others from serious body injury or death of him shooting at us. And I fired rounds in his direction to stop the threat.<sup>33</sup>*

*I observed smoke coming out of the -- the barrel of his weapon of his firearm. I heard a sound of a 22-caliber handgun.<sup>34</sup>*

The UOFRB determined all the rounds of Officer Herrera's First Volley of fire to be reasonable as Officer Herrera was presented with an imminent threat of death or serious bodily injury.

**Volley Two (Rounds 8 through 18)** – Eleven rounds, in a westerly direction from an increasing approximate distance of 38 to 97 feet.

According to Officer Herrera, he redeployed to the street and observed Torres running west on Ottoman Street towards Arleta. Officer Herrera stated Torres was running with a handgun in his right hand. Officer Herrera described Torres holding the handgun under his left armpit, as he continued running and pointing the firearm in Officer Herrera's direction. Herrera stated he fired his firearm once again.

Officer Herrera recalled,

*"At which point, he ran into the house, and my partner and I redeployed to the street to get a better view of the home to see if he went into a different direction. At which point, we observed him running eastbound on Ottoman towards Arleta. And he continued to -- to point the firearm in our direction, which -- at which point, I fired my firearm once again.<sup>35</sup>*

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<sup>32</sup> Officer Herrera, Interview 2 of 2, Page 6, Lines 2-13

<sup>33</sup> Officer Herrera, Interview 1 of 2, Page 6, Lines 15-21

<sup>34</sup> Officer Herrera, Interview 2 of 2, Page 26, Lines 10 -11 and Lines 14-15

<sup>35</sup> Officer Herrera, Interview 1 of 2, Page 6, Lines 22-25 and Page 7, Lines 1-3

*He was -- he was pointing it in our direction. So basically, he was running but he was turning over to his left shoulder and still pointing the firearm at us.*<sup>36</sup>

*I observed the suspect cut through the street. He passed one -- one vehicle. And as he's running, he points the firearm and t -- towards us. And a second -- at the second time, I -- I shot my firearm. Once the suspect fell to the -- to the ground, I -- I -- I was also out of -- out of battery. I did a re -- a speed reload, and the suspect kept running westbound Ottoman towards Arleta. I -- to the point where he -- he -- he was hiding behind a vehicle. I could no longer see him. So I kept -- I ran towards Arleta as well, westbound, to -- to try to attempt to get a better view to see where he was -- he was headed to set up the perimeter for containment.*<sup>37</sup>

*What I can recall when he was running, you could see the firearm in his right hand. And then what I believed when he saw me, that's when he -- he -- he went in this, like in this motion, pointing the firearm towards me. (FID investigator clarified by asking, And you're demonstrating your right arm going under your left armpit turning to your left?) Yes.*<sup>38</sup>

*There was an assessment. I was off shooting continuous twos. And at that point when I observed that he was -- the suspect was more off facing away from me, I observed that he fell to the ground. That's when I stopped firing.*<sup>39</sup>

The UOFRB determined that rounds 8 through 16 Officer Herrera's Second Volley of fire to be reasonable as Officer Herrera was presented with an imminent threat of death or serious bodily injury.

The UOFRB was critical of the last two rounds of Officer Herrera's Second Volley (Rounds 17 and 18). Torres continued to run, turning his body away from Officer Herrera, prior to stumbling and falling to the ground. The UOFRB determined Torres was no longer a threat when Officer Herrera fired rounds 17 and 18. In addition, Officer Herrera perceived he had discharged eight or nine rounds in pairs, while assessing between each pair of shots. A review of Officer Herrera's BWV determined he discharged four rounds in rapid succession, followed by a brief pause, then seven additional rounds, stopping only when his service pistol went to slide lock.

**Volley Three (Rounds 19 through 25)** - Seven rounds in a westerly direction from an increasing approximate distance of 118 feet to 129 feet.

According to Officer Herrera, Torres turned around and presented the firearm again. Officer Herrera observed smoke come from the barrel, assuming Torres had fired another round towards him and his partner's direction. Officer Herrera stated Torres was waiting for him and pointing the firearm towards him and shot at him, which resulted in Officer Herrera discharged his service

<sup>36</sup> Officer Herrera, Interview 1 of 2, Page 13, Lines 8-11

<sup>37</sup> Officer Herrera, Interview 2 of 2, Page 7, Lines 18-25 and Page 8, Lines 1-3

<sup>38</sup> Officer Herrera, Interview 2 of 2, Page 38, Lines 13-23

<sup>39</sup> Officer Herrera, Interview 2 of 2, Page 39, Lines 20-24

pistol for the third volley until he realized he did not have enough cover. According to Officer Herrera, in fear for his life he stopped shooting and redeployed to find better cover.

Officer Herrera recalled,

*"The suspect continued running eastbound on Ottoman towards Arleta. And I -- I began to attempt to get a better position on the south side of the -- the sidewalk, which is when he turned around and presents the firearm again. And I observed smoke come from the barrel, assuming that he had fired another round towards our direction where I continued to fire my firearm.<sup>40</sup>*

*At that point, the suspect was waiting where you could say behind some object and pointing the firearm right at me. I started shooting again, and I -- then I realized where I was. I didn't have enough cover, so I redeployed to the vehicle just east of me right behind me.<sup>41</sup>*

*He was waiting for me. He -- he had the gun pointing right at me, and I engaged him and on him.<sup>42</sup>*

*Because I observed that he was -- he was firing at me, and in fear for my life, I -- I decided that I should go take cover and then -- and then start firing from cover rather than being in the -- in a location where it was just a tree that was pretty thin."<sup>43</sup>*

The UOFRB determined all the rounds of Officer Herrera's Third Volley of fire to be reasonable as Officer Herrera was presented with an imminent threat of death or serious bodily injury.

**Volley Four (Round 26)** – One round, in a westerly direction from an approximate distance of 143 feet.

According to Officer Herrera, Torres continued to run and once again, produced his firearm towards his and his partner's direction. Officer Herrera stated he observed a shiny object coming from underneath Torres armpit which made him believe that Torres was pointing the firearm towards them. According to Officer Herrera he shot his final round and stopped shooting after he assessed Torres' location.

Officer Herrera recalled,

*"As he continued to run -- as he continued to run eastbound on Arleta, he, once again, produced his firearm towards our direction, and I -- where I shot my final round, and realized that he was too far for me to identify a threat, and then we went to -- into*

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<sup>40</sup> Officer Herrera, Interview 1 of 2, Page 7, Lines 4-10

<sup>41</sup> Officer Herrera, Interview 2 of 2, Page 8, Lines 3-8

<sup>42</sup> Officer Herrera, Interview 2 of 2, Page 46, Lines 18-20

<sup>43</sup> Officer Herrera, Interview 2 of 2, Page 48, Lines 19-23

*containment mode, and we attempted to get a better advantage on Ottoman on the -- Ottoman and Arleta on the southeast corner.<sup>44</sup>*

*When I came back up, I saw the suspect running but still with the firearm. I saw a shiny object coming from underneath his armpit which made me believe that he was pointing the firearm towards our direction. I shot one last final shot. And that's when I realized the distance he had on us. And it wasn't a good shot for me to continue shooting based on the public, and as well as I was going to lose sight of him. I -- I then ran towards Arleta to try to get a better view of the suspect to -- to -- to maintain containment for the -- the units responding to the help call.<sup>45</sup>*

The UOFRB determined Officer Herrera's Fourth Volley of fire (Round 26) to be unreasonable as Torres appeared to be running away from Officer Herrera at a distance of approximately 143 feet. Torres actions and his distance did not present an imminent threat of death or serious bodily injury to Officer Herrera, while Officer Herrera's discharged round at that great of a distance presented a danger to the citizens living in that residential community.

**Officer Zendejas** – 9mm, one round, in an easterly direction from an approximate distance of 95 feet.

According to Officer Zendejas, as he and Officer Organista approached the alley, Torres was already drawn out with both arms, both hands pointing a firearm their direction. Officer Zendejas immediately unholstered due to the tactical situation. Officer Zendejas stated he feared for his life and feared for the life of his partner. In order to stop the threat, he discharged his pistol.<sup>46</sup>

Officer Zendejas recalled,

*"To protect the life -- I feared for my life. I feared for the life of my partner. So in order for me to stop the threat, I fired my pistol -- my firearm.<sup>47</sup>*

*He was pointing the firearm at us.<sup>48</sup>*

*When we approach the alley from -- on the street, he's already -- he's already drawn out with both arms, both hands pointing a firearm at our direction. At which point I immediately unholstered due to the tactical situation. He was armed, and I ended up firing approximately one round, because I had reason to believe -- it was an immediate defense of life. He was going to hurt me, he was going to hurt my partner, or the community around. I knew there*

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<sup>44</sup> Officer Herrera, Interview 1 of 2, Page 7, Lines 11-18

<sup>45</sup> Officer Herrera, Interview 2 of 2, Page 8, Lines 8-20

<sup>46</sup> Officer Zendejas, Interview 1 of 2, Page 9, Lines 18-21

<sup>47</sup> Officer Zendejas, Interview 1 of 2, Page 9, Lines 18-21

<sup>48</sup> Officer Zendejas, Interview 1 of 2, Page 8, Lines 15-16

*was some type of movement on the corner house in the alley. So I ended up firing one round.<sup>49</sup>*

*Once I shot -- shot one time, the suspect stumbled back. I believe he fell to the ground, and that's the reason I shot only one time. The threat was stopped at the time. We ended up taking cover against the wall as we were trying to form an arrest team." <sup>50</sup>*

The UOFRB determined Officer Zendejas use of lethal force to be reasonable as Officer Zendejas was presented with an imminent threat of death or serious bodily injury.

In this case, the UOFRB conducted a thorough review of the investigation. During their review, they took into consideration that Torres was an armed suspect who escalated the encounter into a deadly force incident by withdrawing a handgun from his waistband, pointing it, and ultimately firing it at Officers Herrera and Hernandez.

Additionally, Torres continued to engage officers and point the handgun in the direction of officers and Torres' own father, Carlos, as he attempted to evade apprehension. Torres continued to escalate the situation by entering an unlocked and uninvolved residence where a family resided. The family forced Torres out of their residence and over a wall in their back yard where Torres continued his dangerous and defiant manner by continuing to point his handgun in the direction of responding officers which lead to the final OIS incident.

The UOFRB considered the minimal amount of time the officers had to make decisions, the training and experience possessed by the officers and the imminent threat posed by Torres to the officers and the community. The UOFRB noted that each officer articulated their perception of an imminent threat, when Torres, armed with a handgun, pointed it in the direction of officers as well as Carlos. Each of the officers specifically articulated their reasons for their use of lethal force which was to defend themselves, defend other officers at scene, as well as to protect the public. The UOFRB also deliberated at great length and considered that each of the officers conducted assessments of the rounds fired and their effectiveness.

The UOFRB noted that after the initial OIS incident, Officers Herrera and Hernandez redeployed and obtained cover from where they believed Torres was located. Torres spontaneously ran onto the sidewalk and street which significantly removed officers cover and again presented his handgun in the officer's direction wherein the action lead to an additional OIS between the officers and Torres.

The UOFRB was critical of Officer Herrera's second volley of fire as they determined rounds 8 through 16 reasonable as Officer Herrera was presented with an imminent threat of death or serious bodily injury; however, as Torres continued to run and turn his body away from officers, Torres was no longer constituted a threat. The UOFRB took into consideration Officer Herrera's perceived threat and lag time<sup>51</sup> into consideration, but ultimately determined that Officer

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<sup>49</sup> Officer Zendejas Interview 2 of 2 Page 6, Lines 1-12

<sup>50</sup> Officer Zendejas Interview 2 of 2 Page 6, Lines 23-25 and Page 7, Lines 1-3

<sup>51</sup> Lag time is the time it takes a person to react to an action.

Herrera's continuation of firing rounds 17 and 18 were unjustifiable as Officer Herrera was no longer faced with the perceived threat. As the incident continued Officer Herrera was faced with Torres, who again displayed his handgun and in a shooting stance in the direction of Officer Herrera. Officer Herrera reasonably fired his service pistol an additional seven rounds at Torres until Officer Herrera feared for his life, discontinued firing and sought cover behind a nearby vehicle. Upon establishing cover Officer Herrera unjustifiably discharged one final round at Torres as he ran away from officers. While Officer Herrera stated he assessed and was firing in pairs, the board deliberated and believed it was evident through analysis of the investigation and review of Officer Herrera's BWV that there was deficient assessment when he discharged his service pistol.

### **Officers Hernandez and Zendejas**

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Hernandez and Zendejas would reasonably believe Torres' actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would be objectively reasonable.

Therefore, I find Officers Hernandez and Zendejas' use of lethal force to be In Policy, No Further Action.

### **Officer Herrera**

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Herrera when firing rounds 1 – 16 and rounds 19 – 25, would reasonably believe Torres' actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would be objectively reasonable.

Therefore, I find Officers Herrera's use of lethal force (Rounds 1 – 16) and (Rounds 19 – 25) to be In Policy, No Further Action.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer Herrera, when firing rounds 17, 18, and 26, would have believed that Torres no longer posed a threat to the officer.

Therefore, I find Officer Herrera's use of lethal force (Rounds 17, 18, and 26) to be Out of Policy, Administrative Disapproval.

### **Additional/Required Equipment**

**Protocols Subsequent to a Categorical Use of Force** – The investigation revealed that Sergeant Hearn assigned a non-supervisory employee, Officer Cuellar, to monitor Substantially Involved Persons, instead of a supervisor. Officer Cuellar separated and monitored Officers Herrera and Officer Hernandez. Sergeant Hearn additionally left her BWV activated while she obtained the PSS of an involved officer. This issue was brought to the attention of Captain J. Smith, Serial

No. 30339, Commanding Officer, Mission Patrol Division, who advised the issue was addressed through divisional training with Sergeant Hearn. The Commanding Officer of Operations – Valley Bureau (OVB) and the Director of the Office of Operations (OO) concurred with this action. As such, I deem no further action is necessary.

**Body Worn Video (BWV) Activation** – The investigation revealed that Officers Cuellar, Tsai, Kruse, Zendejas, Ibarra, Enrique, and Sergeant Kiefer were identified as lacking a full two-minute buffer, a delayed activation, or both. An analysis by Mission Area, Foothill Area, and OVB determined that they activated their BWV cameras and responded Code-Three from their respective police stations. As such, per the Office of Constitutional Policing and Policies (OCPP) Notice, the officers were authorized to power down the BWV as the officer was not likely to become engaged in enforcement, investigative actions, or make contact with the community. The identified anomalies were not considered a deviation from policy and resulted in no corrective action with the officer. The Commanding Officer of OVB and the Director of OO concurred with this action. As such, I deem no further action is necessary.<sup>52</sup>

The Office of Operations conducted a random inspection of BWV assigned to Officers Cuellar, Tsai, Kruse, Zendejas, Ibarra, Enrique, and Sergeant Kiefer from May 1, 2020 through May 31, 2020 for compliance with BWV policy specific to the officer's identified non-compliance. The results of the inspections indicated all were in compliance.

The investigation revealed that Officer Simental lacked a full two-minute buffer for the incident. An analysis by Mission Area and OVB determined that Officer Simental was at Mission Community Police Station conducting follow-up duties. Per the OCPP Notice, the officer was authorized to power down the BWV as the officer was not likely to become engaged in enforcement, investigative actions, or make contact with the community. As such, the identified anomaly was not considered a deviation from policy and resulted in no corrective action with the officer.

The Office of Operations conducted a random inspection of BWV assigned to Officer Simental from May 1, 2020 through May 31, 2020 for compliance with BWV policy specific to having a full two-minute buffer. The results of the inspection indicated Officer Simental was compliant on four of eight selected incidents, which have been addressed with the issuance of a Supervisory Action Item (SAI) and a Notice to Correct Deficiencies.

The investigation revealed that Officer Miller lacked a full two-minute buffer and had a delayed activation for the incident. An analysis by Mission Area and OVB determined that Officer Miller was at Mission Community Police Station conducting follow-up duties. Officer Miller activated his BWV while responding Code-Three to the incident. Per the OCPP Notice, the officer was authorized to power down the BWV as the officer was not likely to become engaged in enforcement, investigative actions, or make contact with the community. As such, the

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<sup>52</sup> Sergeant Kiefer also powered off his BWV device on two occasions during the incident. The first occasion was while calling and briefing the watch commander of the incident and the second occasion was to telephonically update a counterpart of the incident. Per the OVB investigation, the deactivations were justified as an exception under Special Order No. 12.

identified anomaly was not considered a deviation from policy and resulted in no corrective action with the officer.<sup>53</sup>

The Office of Operations conducted a random inspection of BWV assigned to Officer Miller from May 1, 2020 through May 31, 2020 for compliance with BWV policy specific to timely BWV activation. The results of the inspection indicated Officer Miller was compliant on seven of eight selected incidents, which have been addressed with the issuance of a SAI and an Employee Comment Sheet.

The investigation revealed that Officer Griffin lacked a full two-minute buffer and had a delayed activation for the incident. An analysis by Mission Area and OVB determined that Officer Griffith was observed running out of Mission Community Police Station responding to the additional personnel request. As such, this late activation was deemed reasonable; therefore, the command determined it fell within the guidelines of BWV being activated as soon as practicable, as identified in Special Order No. 12, 2015. Therefore, these identified anomalies were not considered deviations from policy and resulted in no corrective actions with the officer.

The Office of Operations conducted a random inspection of BWV assigned to Officer Griffin from May 1, 2020 through May 31, 2020 for compliance with BWV policy specific to having a full two-minute buffer. The results of the inspection indicated Officer Griffin was compliant on seven of eight selected incidents, which have been addressed with the issuance of a SAI and an Employee Comment Sheet.

The investigation revealed that Sergeant Vega lacked a full two-minute buffer for the incident and a delayed activation for the incident. An analysis by Mission Area and OVB determined Sergeant Vega's BWV was activated as his patrol vehicle was stopped with its emergency equipment activated at the intersection of Van Nuys Boulevard and Nordhoff Street. Mission Area and OVB made the determination that Sergeant Vega was in the field without his BWV device being in the on position; as such, the late activation was considered a deviation by the command. Captain Smith addressed the issue through the generation of a SAI and the issuance of a Notice to Correct Deficiencies. The Commanding Officer of OVB and the Director of OO concurred with this action. As such, I deem no further action is necessary.

The Office of Operations conducted a random inspection of BWV associated to Sergeant Vega from May 1, 2020 through May 31, 2020 for compliance with BWV policy specific to timely BWV activation. The results of the inspection indicated Sergeant Vega was in compliance.

The investigation revealed that Officer Organista had a late activation of his BWV device for the incident. An analysis by Foothill Area and OVB determined that Officer Organista was at Foothill Community Police Station participating in roll call at his start of watch. An analysis of Officer Organista's history with BWV compliance indicated that he did not have any prior BWV non-compliance incidents. Captain G. Hurtado, Serial No. 34865, Commanding Officer, Foothill

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<sup>53</sup> Officer Miller had one prior issue with delayed activation on June 29, 2019. Officer Miller's prior incident resulted in a SAI with a disposition of an Informal Meeting. However, since this current incident was not considered a deviation, no progressive discipline was required.

Patrol Division, addressed the issue through the generation of a SAI. The Commanding Officer of OVB and the Director of OO concurred with this action. As such, I deem no further action is necessary.

The Office of Operations conducted a random inspection of BWV associated to Officer Organista from May 1, 2020 through May 31, 2020 for compliance with BWV policy specific to timely BWV activation. The results of the inspection indicated Officer Organista was in compliance.

The investigation revealed that Officer Fischer had a delayed activation of his BWV device. An analysis by Foothill Area and OVB determined that Officer Fischer was at Foothill Community Police Station participating in roll call at start of watch. Per the OCPP Notice, the officer was authorized to power down the BWV as the officer was not likely to become engaged in enforcement, investigative actions, or make contact with the community. However, Officer Fischer did not activate his BWV until approximately 30 seconds after his arrival on scene. As such, it was considered a deviation from policy. Captain Hurtado addressed the issue through the generation of a SAI and the issuance of an Employee Comment Sheet.

The Office of Operations conducted a random inspection of BWV assigned to Officer Fischer from May 1, 2020 through May 31, 2020 for compliance with BWV policy specific to timely BWV activations. The results of the inspection indicated Officer Fischer was compliant on six of eight selected incidents, which have been addressed with the issuance of a SAI and an Employee Comment Sheet.

The investigation revealed that Officer Fonseca lacked a full two-minute buffer on her BWV and had late activations for the incident. An analysis by Foothill Area and OVB determined that Officer Fonseca was at Foothill Community Police Station while she was participating in the start of watch roll call. Per the OCPP Notice, the officer was authorized to power down the BWV as the officer was not likely to become engaged in enforcement, investigative actions, or make contact with the community. She activated her BWV while responding Code-Three to the incident. She additionally deactivated her BWV at the direction of Sergeant Kiefer to power off her BWV during a briefing of the incident and also permissible under Special Order No. 12, 2015. The additional late activations occurred during an additional search of a residence, after the suspect was taken into custody. Officer Fonseca had one prior BWV non-compliance incident. Captain Hurtado addressed the issue through the generation of a SAI and the issuance of an Employee Comment Sheet.

The Office of Operations conducted a random inspection of BWV assigned to Officer Fonseca from May 1, 2020 through May 31, 2020 for compliance with BWV policy. The results of the inspection indicated Officer Fonseca was compliant on seven of eight selected incidents for timely BWV activation and five of eight selected incidents for having a full two-minute buffer. The inspection results have been addressed with the initiation of a SAI and the generation of a personnel complaint.

The investigation revealed Officer Green lacked a full two-minute buffer on his BWV recording and had a late activation during the incident. An analysis by Foothill Area and OVB determined that Officer Green was at Foothill Community Police Station participating in roll call at start of watch. Officer Green activated his BWV soon after responding Code-Three to the incident. Per the OCPP Notice, the officer was authorized to power down the BWV as the officer was not likely to become engaged in enforcement, investigative actions, or make contact with the community. The second deactivation was at the direction of Sergeant Kiefer to power off his BWV during a briefing of the incident and was also permissible under Special Order No. 12, 2015. Officer Green powered off his BWV two other times; once prior to speaking with Sergeant Kiefer and the other was inadvertently done while at scene. Captain Hurtado addressed the inadvertent deactivation of his BWV through the generation of a SAI and the issuance of an Employee Comment Sheet.

The Office of Operations conducted a random inspection of BWV assigned to Officer Green from May 1, 2020 through May 31, 2020 for compliance with BWV policy. The results of the inspection indicated Officer Green was compliant on eight of eight selected incidents for timely BWV activation and seven of eight selected incidents for having a full two-minute buffer. The inspection results have been addressed with the issuance of a SAI and an Employee Comment Sheet.

The investigation revealed Officer Palacios lacked a full two-minute buffer on his BWV recording, had delayed activations and one deactivation on his BWV device. An analysis by Foothill Area and OVB determined that Officer Palacios first BWV issue of concern was at Foothill Community Police Station participating in roll call at start of watch. Officer Palacios activated his BWV while responding Code-Three to the incident. Per the OCPP Notice, the officer was authorized to power down the BWV as the officer was not likely to become engaged in enforcement, investigative actions, or make contact with the community. The second deactivation was at the direction of Sergeant Kiefer to power off his BWV during a briefing of the incident and was also permissible under Special Order No. 12, 2015. Officer Palacios had a delayed activation and deactivation of his BWV during a secondary search. Captain Hurtado addressed the additional BWV issues through training and the generation of a SAI.

The Office of Operations conducted a random inspection of BWV assigned to Officer Palacios from May 1, 2020 through May 31, 2020 for compliance with BWV policy specific to timely BWV activations. The results of the inspection indicated Officer Palacios was compliant on seven of eight selected incidents, which have been addressed with the issuance of a SAI and an Employee Comment Sheet.

The investigation revealed that two days prior to the OIS incident, Officer McDermott did not activate her BWV while having contact with Ariel Torres at the front desk of Mission Community Police Station. An analysis by Mission Area determined Officer McDermott did not have any prior BWV non-compliant incidents. Captain Smith addressed the issue through the generation of a SAI and the issuance of an Employee Comment Sheet. The Commanding Officer of OVB and the Director of OO concurred with this action. As such, I deem no further action is necessary.

The Office of Operations conducted a random inspection of BWV associated to Officer McDermott from May 1, 2020 through May 31, 2020 for compliance with BWV policy specific to the officer's identified non-compliance. The results of the inspection indicated Officer McDermott was in compliance.

#### **Audio/Video Recordings**

**Digital In-Car Video System (DICVS)** – Mission Patrol Division and Foothill GED police vehicles were equipped with DICVS. No DICVS footage captured the OISs involving Officers Herrera, Hernandez, or Zendejas. The DICVS for Officer Green and Fonseca captured the taking of Torres into custody. The DICVS for Officer Moya captured Raul Sr., Monica, and Raul Jr. exiting from their residence.

**Body Worn Video (BWV)** - Mission Patrol Division and Foothill GED personnel were equipped with BWV at the time of this incident. Officers Herrera's and Hernandez's BWVs captured their OIS incidents. Officer Zendejas' BWV footage captured his OIS incident and Torres being taken into custody. Approximately 73 additional BWVs were identified as being related to this incident. The videos captured activities related to their response, the establishment of a perimeter and the securing of the crime scene.

**Outside Video Surveillance** - Force Investigation Division investigators located security video at 13141 Ottoman Street. One camera angle captured Torres running toward the front of the residence with a handgun in his right hand. An additional camera angle captured the residents ordering Torres out of their backyard at gunpoint. Torres can then be seen pointing his handgun west toward Arleta Avenue and then collapsing in the alley.

Force Investigation Division investigators located security video from 13113 Ottoman Street. One angle from this video system captured Torres moving south along the west side of 13107 Ottoman Street before jumping a fence and entering the driveway. On a different angle, Carlos can also be seen walking south on the same driveway before running ahead of Torres.

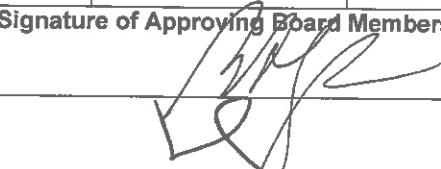
Respectfully,

  
MICHEL R. MOORE  
Chief of Police

Date: 6-11-20

SHOOTING

## REVIEW BOARD INFORMATION

Location of Incident 13101 Ottoman Street	RD 1979	Date of Incident August 19, 2019	Date and Time of Board Review May 18, 2020 1430 Hours
Chair Assistant Chief B. Girmala, Serial No. 24916	Signature of Approving Board Members: 		
Member (Office Representative) Commander M. Rimkusas, Serial No. 32211			
Member (Personnel and Training Bureau) Commander R. Flores, Serial No. 30995			
Member (Bureau) Commander A. Hamilton, Serial No. 27393			
Member (Officer Peer) Officer B. Carlson, Serial No. 43122			
Member (Sergeant Peer) Sergeant J. Drenckhahn Serial No. 37779			
Presenting Commanding Officer Captain J. Smith, Serial No. 30339			
Presenting Commanding Officer Captain G. Hurtado, Serial No. 34865			
NOTES:	<div style="text-align: right;">RECEIVED JUN 12 2020</div> <div style="text-align: right;">2020 JUN 1 PM 4:33</div> <div style="text-align: right;">RECEIVED PM 4:33</div> <div style="text-align: right;">OFFICE OF THE INSPECTOR GENERAL</div>		
ADDITIONAL CONSIDERATIONS:			
MODIFICATION TO PRESENT POLICY, PRACTICES OR TRAINING:			
<input type="checkbox"/> COP Date Signed: _____ <input type="checkbox"/> PC Date Submitted: _____			

Employee (Last Name, First, Middle)  
Herrera, Adiel

Serial No.  
42119

Rank/Class  
Police Officer II

042-19

Length of Employment 4 years, 2 months	Current Division Mission	Time in Current Division 2 weeks, 1 day																								
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Notes:

(JN)

340012

(JR) 340012

<b>Final Adjudication for Out of Policy/ Administrative Disapproval Finding</b>
<input type="checkbox"/> Extensive Retraining <input type="checkbox"/> Notice to Correct Deficiencies <input type="checkbox"/> Personnel Complaint
<input type="checkbox"/> Employee's Work History Reviewed

Notes:

\*A Tactical Debrief shall be conducted for all Categorical Use of Force Incidents.

Employee (Last Name, First, Middle):  
Hernandez, Raul

Serial No.:  
43361

Rank/Class:  
Police Officer II

Incident No.:  
042-19

Length of Employment:  
1 year, 7 months

Current Division  
Mission

Time in Current Division:  
2 weeks, 1 day

Use of Force Review Board	Chief of Police	Police Commission
<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Tactical Debrief <input checked="" type="checkbox"/> Administrative Disapproval	<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Tactical Debrief <input checked="" type="checkbox"/> Administrative Disapproval	<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval
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Notes:

**Final Adjudication for Out of Policy/  
Administrative Disapproval Finding**

- Extensive Retraining
- Notice to Correct Deficiencies
- Personnel Complaint
- 
- Employee's Work History Reviewed

Notes:

\*A Tactical Debrief shall be conducted for all Categorical Use of Force Incidents.

Employee (Last Name, First, Middle)  
Zendejas, Miguel

Serial No.  
40955

Rank/Class  
Police Officer II

(Document No.)  
042-15

Length of Employment 7 years, 8 months	Current Division Foothill	Time in Current Division 4 years, 8 months																								
<table border="1"> <thead> <tr> <th>Use of Force Review Board</th> <th>Chief of Police</th> <th>Police Commission</th> </tr> </thead> <tbody> <tr> <td> <p><b>Tactics</b></p> <p><input type="checkbox"/> Does Not Apply  <input checked="" type="checkbox"/> Tactical Debrief  <input type="checkbox"/> Administrative Disapproval</p> </td> <td> <p><b>Tactics</b></p> <p><input type="checkbox"/> Does Not Apply  <input checked="" type="checkbox"/> Tactical Debrief  <input type="checkbox"/> Administrative Disapproval</p> </td> <td> <p><b>Tactics</b></p> <p><input type="checkbox"/> Does Not Apply  <input type="checkbox"/> Tactical Debrief  <input type="checkbox"/> Administrative Disapproval</p> </td> </tr> <tr> <td> <p><b>Drawing and Exhibiting the Firearm</b></p> <p><input type="checkbox"/> Does Not Apply  <input checked="" type="checkbox"/> In Policy (No Further Action)  <input type="checkbox"/> Out of Policy (Administrative Disapproval)</p> </td> <td> <p><b>Drawing and Exhibiting the 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Use of Force Review Board	Chief of Police	Police Commission																								
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Notes:

**Final Adjudication for Out of Policy/  
Administrative Disapproval Finding**

Extensive Retraining  
 Notice to Correct Deficiencies  
 Personnel Complaint  
  
 Employee's Work History Reviewed

Notes:

\*A Tactical Debrief shall be conducted for all Categorical Use of Force Incidents.

Employee (Last Name, First, Middle)  
Kiefer, BrandonSerial No.  
37641Rank/Class  
Sergeant IIIncident #  
042-14Length of Employment  
14 years, 1 monthCurrent Division  
FoothillTime in Current Division  
1 year, 5 months

Use of Force Review Board	Chief of Police	Police Commission
<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval	<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval	<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval
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Notes:

**Final Adjudication for Out of Policy/**  
**Administrative Disapproval Finding**

Extensive Retraining  
 Notice to Correct Deficiencies  
 Personnel Complaint  
  
 Employee's Work History Reviewed

Notes:

\*A Tactical Debrief shall be conducted for all Categorical Use of Force Incidents.

Employee (Last Name, First Middle)  
Organista, Jose

Serial No.  
39830

Rank/Class  
Police Officer II

Incident No.  
042-19

Length of Employment 7 years, 8 months	Current Division Foothill	Time in Current Division 2 years, 9 months
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Use of Force Review Board	Chief of Police	Police Commission
<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval	<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval	<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval
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<b>Lethal Use of Force</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)	<b>Lethal Use of Force</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)	<b>Lethal Use of Force</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
<b>Less-Lethal Use of Force</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)	<b>Less-Lethal Use of Force</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)	<b>Less-Lethal Use of Force</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
<b>Non-Lethal Use of Force</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)	<b>Non-Lethal Use of Force</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)	<b>Non-Lethal Use of Force</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
<b>Unintentional Discharge</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> Accidental <input type="checkbox"/> Negligent (Administrative Disapproval)	<b>Unintentional Discharge</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> Accidental <input type="checkbox"/> Negligent (Administrative Disapproval)	<b>Unintentional Discharge</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Accidental <input type="checkbox"/> Negligent (Administrative Disapproval)
<b>Other Issues</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)	<b>Other Issues</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)	<b>Other Issues</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)

Notes:

**Final Adjudication for Out of Policy/  
Administrative Disapproval Finding**

- Extensive Retraining
- Notice to Correct Deficiencies
- Personnel Complaint
  
- Employee's Work History Reviewed

Notes:

\*A Tactical Debrief shall be conducted for all Categorical Use of Force Incidents.